

# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2021

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-33225



## Great Lakes Dredge & Dock Corporation

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

9811 Katy Freeway, Suite 1200, Houston, TX  
(Address of principal executive offices)

20-5336063  
(I.R.S. Employer  
Identification No.)

77024  
(Zip Code)

(346) 359-1010

(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, (Par Value \$0.0001)	GLDD	Nasdaq Stock Market, LLC

Securities registered pursuant to section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  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. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted 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 such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

The aggregate market value of voting stock held by non-affiliates of the Registrant was \$971,349,291 at June 30, 2021. The aggregate market value was computed using the closing price of the common stock as of June 30, 2021 on the Nasdaq Stock Market. (For purposes of a calculating this amount only, all directors and executive officers of the registrant have been treated as affiliates.)

As of February 19, 2022, 65,746,302 shares of Registrant's Common Stock, par value \$.0001 per share, were outstanding.

### DOCUMENTS INCORPORATED BY REFERENCE

#### Part of 10-K

Part III

#### Documents Incorporated by Reference

Portions of the Proxy Statement to be filed with the Securities and Exchange Commission in connection with the 2022 Annual Meeting of Stockholders.

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## Cautionary Note Regarding Forward-Looking Statements

Certain statements in this Annual Report on Form 10-K may constitute “forward-looking” statements as defined in Section 27A of the Securities Act of 1933 (the “Securities Act”), Section 21E of the Securities Exchange Act of 1934 (the “Exchange Act”), the Private Securities Litigation Reform Act of 1995 (the “PSLRA”) or in releases made by the Securities and Exchange Commission (“SEC”), all as may be amended from time to time. Such forward-looking statements involve known and unknown risks, uncertainties and other important factors that could cause the actual results, performance or achievements of Great Lakes Dredge & Dock Corporation and its subsidiaries (“Great Lakes”), or industry results, to differ materially from any future results, performance or achievements expressed or implied by such forward-looking statements. Statements that are not historical fact are forward-looking statements. Forward-looking statements can be identified by, among other things, the use of forward-looking language, such as the words “plan,” “believe,” “expect,” “anticipate,” “intend,” “estimate,” “project,” “may,” “would,” “could,” “should,” “seeks,” or “scheduled to,” or other similar words, or the negative of these terms or other variations of these terms or comparable language, or by discussion of strategy or intentions. These cautionary statements are being made pursuant to the Securities Act, the Exchange Act and the PSLRA with the intention of obtaining the benefits of the “safe harbor” provisions of such laws. Great Lakes cautions investors that any forward-looking statements made by Great Lakes are not guarantees or indicative of future performance. Important assumptions and other important factors that could cause actual results to differ materially from those forward-looking statements with respect to Great Lakes, include, but are not limited to, risks and uncertainties that are described in Item 1A. “Risk Factors” of this Annual Report on Form 10-K for the year ended December 31, 2021, and in other securities filings by Great Lakes with the SEC.

Although Great Lakes believes that our plans, intentions and expectations reflected in or suggested by such forward-looking statements are reasonable, actual results could differ materially from a projection or assumption in any forward-looking statements. Great Lakes’ future financial condition and results of operations, as well as any forward-looking statements, are subject to change and inherent risks and uncertainties. The forward-looking statements contained in this Annual Report on Form 10-K are made only as of the date hereof and we do not have or undertake any obligation to update or revise any forward-looking statements whether as a result of new information, subsequent events or otherwise, unless otherwise required by law.

**Item 1. Business**

The terms “we,” “our,” “ours,” “us,” “Great Lakes” and “Company” refer to Great Lakes Dredge & Dock Corporation and its subsidiaries.

**Organization**

Great Lakes is the largest provider of dredging services in the United States. In addition, the Company has a long history of performing significant international projects. The Company was founded in 1890 as Lydon & Drews Partnership and performed its first project in Chicago, Illinois. The Company changed its name to Great Lakes Dredge & Dock Company in 1905 and was involved in a number of marine construction and landfill projects along the Chicago lakefront and in the surrounding Great Lakes region. Great Lakes now provides dredging services in the East and Gulf Coasts of the United States and worldwide.

The Company operates in one operating segment, which is also the Company’s sole reportable segment and reporting unit.

During the second quarter of 2019, the Company completed the sale of its historical environmental & infrastructure business. The historical environmental & infrastructure segment has been retrospectively presented as discontinued operations and is no longer reflected in continuing operations. Refer to Note 13, “Business dispositions,” to the Company’s consolidated financial statements included in Item 15 of this Annual Report on Form 10-K.

**Operations**

Dredging generally involves the enhancement or preservation of the navigability of waterways or the protection of shorelines through the removal or replenishment of soil, sand or rock. Domestically, our work generally is performed in coastal waterways and deep water ports. The U.S. dredging market consists of four primary types of work: capital, coastal protection, maintenance and rivers & lakes. The Company’s “bid market” is defined as the aggregate dollar value of domestic dredging projects on which the Company bid or could have bid if not for capacity constraints or other considerations. The Company experienced an average combined bid market share in the U.S. of 37% over the prior three years, including 49%, 55%, 19% and 34% of the domestic capital, coastal protection, maintenance and rivers & lakes sectors, respectively.

Over its 131 year history, the Company has grown to be a leader in capital, coastal protection and maintenance dredging in the United States and is one of the oldest and most experienced dredging companies in the country. The Company’s foreign projects are typically categorized in the capital work type, but are not included in the aforementioned bid market.

*Capital (domestic is 55% of 2021 revenues).* Capital dredging consists primarily of port expansion projects, which involve the deepening of channels and berthing basins to allow access by larger, deeper draft ships and the provision of land fill used to expand port facilities. In addition to port work, capital projects also include coastal restoration and land reclamations, trench digging for pipelines, tunnels and cables, and other dredging related to the construction of breakwaters, jetties, canals and other marine structures. Although capital work can be impacted by budgetary constraints and economic conditions, these projects typically generate an immediate economic benefit to the ports and surrounding communities.

*Coastal protection (23% of 2021 revenues).* Coastal protection projects generally involve moving sand from the ocean floor to shoreline locations where erosion threatens shoreline assets. Beach erosion is a continuous problem that has intensified with the rise in coastal development and has become an important issue for state and local governments concerned with protecting beachfront tourism and real estate. Coastal protection via beach nourishment is often viewed as a better response to erosion than trapping sand through the use of sea walls and jetties, or relocating buildings and other assets away from the shoreline. Generally, coastal protection projects take place during the fall and winter months to minimize interference with bird and marine life migration and breeding patterns as well as coastal recreation activities.

*Maintenance (18% of 2021 revenues).* Maintenance dredging consists of the re-dredging of previously deepened waterways and harbors to remove silt, sand and other accumulated sediments. Due to natural sedimentation, most channels generally require maintenance dredging every one to three years, thus creating a recurring source of dredging work that is typically non-deferrable if optimal commercial navigability is to be maintained. In addition, severe weather such as hurricanes, flooding and droughts can also cause the accumulation of sediments and drive the need for maintenance dredging.

*Foreign (1% of 2021 revenues).* Foreign capital projects typically involve land reclamations, channel deepening and port infrastructure development. The Company targets foreign opportunities that are well suited to the Company’s equipment and where it faces reduced competition from its European competitors. Maintaining a presence in foreign markets has enabled the Company to

diversify its customer base and take advantage of differences in global economic development. Over the last two decades, the Company has performed dredging work in the Middle East, Africa, Australia, the Caribbean and Central and South America.

*Rivers & lakes (3% of 2021 revenues).* Domestic rivers and lakes dredging and related operations typically consist of lake and river dredging, inland levee and construction dredging, environmental restoration and habitat improvement and other marine construction projects. Although the Mississippi River has a large source of projects on which the Company bids, certain dredges used on these projects are more portable and able to be transported to take advantage of the fragmented market. Generally, inland river and lake projects in the northern U.S. take place in non-winter months because frozen waterways significantly reduce contractors' ability to operate and transport its equipment in the relevant geographies.

### **Demand Drivers**

The Company believes that the following factors are important drivers of the demand for its services:

- *Deep port capital projects.* Most of the East Coast and Gulf ports have expansion plans that include deepening and widening in order to better compete for international trade. Many shipping lines have announced plans to deploy larger ships which, due to the channel dimension requirements, currently would not be able to use many U.S. ports. Dredging commenced on two Charleston Entrance Channel projects during 2018 and the Company was successful in securing an additional phase of deepening with all three phases having been completed in 2021. The ports of Los Angeles and Long Beach continue expansion efforts to remain competitive with deepened East Coast ports. Deepening projects in Corpus Christi, Galveston, Freeport, Baltimore and Mississippi were awarded in 2019. In 2020, the Company was awarded port deepening projects in Jacksonville, Freeport, Charleston and Mobile with Jacksonville being completed in 2021. In 2021, Boston, Mobile, Corpus Christi, Portsmouth and Houston port deepening projects were awarded to the Company. The Houston port deepening project is a significant project that will last several years. In 2022, the Company expects to see the continuation of port deepening bids in the ports of Norfolk, Freeport, Mobile, Sabine and additional phases in the Houston ship channel. In addition, during the fourth quarter of 2020, the President signed the Consolidated Appropriations Act, which included the 2020 Water Resource Development Act (the "WRDA 2020"), into law. The WRDA 2020 authorizes new projects and makes policy changes that will make natural infrastructure and beneficial use of dredged material more common. This continues the trend of WRDA legislation in each session of Congress since 2014. The Company views the above as positive catalysts for the domestic dredging industry as it authorizes funding for critical infrastructure improvements that are needed throughout the U.S. Further, the WRDA bills authorize studies for future water resources improvements and make modifications to previous authorizations. The Company believes that port deepening and expansion work authorized under current and anticipated future legislation will continue to provide significant opportunities for the domestic dredging industry.
- *Gulf coast restoration.* There has been continued focus on restoring the barrier islands and wetlands that provide natural protection from storms in the Gulf Coast area. Many restoration projects have commenced to repair coastal areas. Several additional projects are being planned by state and local governments to restore natural barriers. The State of Louisiana has completed a master plan calling for a \$50 billion investment in its coastal infrastructure, with a significant portion involving dredging. During 2019, the Company was awarded an additional phase of the Mississippi coastal restoration project in the Gulf of Mexico. In 2020, the Company was awarded two coastal restoration projects in Louisiana by the Louisiana Coastal Protection and Restoration Agency (the "CPRA") and this work was performed in 2021. The CPRA recently released their fiscal year 2023 plan which included 18 dredging coastal restoration projects that are slated for construction using more than 79 million cubic yards of dredged material to create or nourish over 14,000 acres of coastal wetlands. Many Gulf States have previously committed to spending a portion of the nearly \$20 billion in fines received from the 2015 BP settlement of the Deepwater Horizon oil spill to repair the natural resources impacted by the event including coastal restoration projects that include dredging. The bulk of the fines are to be paid over the next decade and the Company expects several coastal restoration projects envisioned by the Gulf States to come to fruition in the next several years providing a new source of domestic capital dredging projects on which the Company will bid. The annual bid market for domestic capital dredging, which includes deep port capital dredging and Gulf Coast restoration, averaged \$577 million over the prior three years.

- *Substantial need for coastal protection.* Beach erosion is a recurring problem due to the normal ebb and flow of coastlines as well as the effects of severe storm activity. Growing populations in coastal communities and vital beach tourism are drawing attention to the importance of protecting beachfront assets. Over the past few years, both the federal government and state and local entities have funded beach work recognizing the essential role these natural barriers play in absorbing storm energy and protecting public and private property. With continued funding available for projects in the Northeast from the Superstorm Sandy supplemental appropriations, the Company expects to continue to see an increase in projects let for bid in the coastal protection market. As a result of the extreme storm systems in 2017 involving Hurricanes Harvey, Irma, and Maria, the Federal Government passed supplemental appropriations for disaster relief and recovery which includes \$17.4 billion for the U.S. Army Corps of Engineers (the “Corps”) to fund projects that will reduce the risk of future damage from flood and storm events. The Corps is progressing with its plans for this funding, and it is currently believed that over \$1.8 billion is expected to be added to its dredging related budget over the next few years. Most of this work is anticipated to be coastal protection related, but some funding has been provided for channel maintenance. During 2019, Congress passed an additional \$3.3 billion of supplemental appropriations for disaster relief funding as a result of Hurricane Florence and Hurricane Michael and that work is in process. In September 2021, a supplemental bill was passed that included approximately \$5.7 billion for emergency funding as a result of Hurricane Ida impacts. The annual bid market for coastal protection over the prior three years averaged \$345 million.
- *Required maintenance of U.S. ports.* The channels and waterways leading to U.S. ports have stated depths on which shippers rely when entering those ports. Due to naturally occurring sedimentation and severe weather, active channels require maintenance dredging to ensure that stated depths are at authorized levels. Consequently, the need to maintain channel depth creates a recurring source of dredging work that is non-deferrable if optimal navigability is to be preserved. The Corps is responsible for federally funded projects related to navigation and flood control of U.S. waterways. The maritime industry, including the ports, has repeatedly advocated for congressional efforts to ensure that a fully funded, recurring maintenance program is in place. As noted above, WRDA 2020 was signed into law during the fourth quarter of 2020. Similar to past versions of the bill, WRDA 2020 language calls for full use of the Harbor Maintenance Trust Fund (“HMTF”) for its intended purpose of maintaining future access to the waterways and ports that support our nation’s economy. The WRDA 2020 legislation also provides access to the \$9.3 billion in unspent HMTF tax collections, establishes a funds distribution process for HMTF funding and approves projects to proceed to construction. Additionally, on March 27, 2020, the U.S. government enacted the Coronavirus Aid, Relief and Economic Security Act (the “CARES Act”) which includes a provision that lifts caps on the HMTF, thereby allowing full access to future annual revenues. Through the increased appropriation of HMTF monies, the Company anticipates increased funding for harbor maintenance projects to be let for bid and an increase in maintenance dredging projects to be let for bid throughout 2022 and beyond. The House of Representatives passed its version of the Corps fiscal year 2022 budget in July 2021 at \$8.66 billion and the Senate passed its version in August 2021 at \$8.9 billion. As a result, the Company anticipates the Corps fiscal year 2022 final budget will pass at a record level. Corps projects involving deepening, maintenance and coastal dredging are in line for robust funding continuing the trend of recent years. In both aforementioned budget versions, HMTF annual expenditures are proposed at record levels and with reduced restrictions on the use of the HMTF fund. The annual bid market for maintenance dredging over the prior three years averaged \$753 million.
- *Need to maintain safe navigability of the U.S. river system.* There are over 12,000 miles of commercially navigable inland waterways that move more than 566 million tons of commercial goods annually. Transportation by barge requires less energy, and therefore is both better for the environment and a more cost-efficient way to move cargo than transportation by airplane, railcar or truck. Many industries rely on safe navigability of U.S. inland waterways as a primary means to transport goods and commodities such as coal, chemicals, petroleum, minerals, stones, metals and agricultural products. Natural sedimentation and other circumstances require that the inland waterway system be periodically dredged so that it can be used as intended. The Corps recognizes the need to maintain the safe navigability of U.S. waterways. The annual bid market for rivers and lakes dredging over the prior three years averaged \$122 million.
- *Domestic and international energy transportation.* The growth in demand for transportation of energy worldwide has driven the need for dredging to support new terminals, harbors, channels and pipelines. In addition, several Liquefied Natural Gas (“LNG”), petrochemical and crude oil projects are creating the need for port development in support of energy exports. The significant drop in crude oil prices during recent years may lead to a slowdown in the development of LNG export plants; however, the Company continues to expect that future global energy demand will necessitate improvements in the infrastructure base around sources of rich resources and in countries that import or export global energy.

For additional details regarding Operations, including financial information regarding our international and U.S. revenues and long-lived assets, see Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and Item 8. “Financial Statements and Supplementary Data” in this Annual Report on Form 10-K.

## **Customers**

The dredging industry’s customers include federal, state and local governments, foreign governments and both domestic and foreign private concerns, such as utilities and oil and other energy companies. Most dredging projects are competitively bid, with the award going to the lowest qualified bidder. Customers generally have few economical alternatives to dredging services. The Corps is the largest dredging customer in the U.S. and has responsibility for federally funded projects related to navigation and flood control. In addition, the U.S. Coast Guard and the U.S. Navy are responsible for awarding federal contracts with respect to their own facilities. In 2021, approximately 78% of the Company’s dredging revenues were generated from 47 different contracts with federal agencies or third parties operating under contracts with federal agencies.

As a result of the pandemic outbreak of coronavirus (“COVID-19”), the U.S. Department of Homeland Security federally designated the Company as an essential business or “critical infrastructure” company that can maintain operations during the ongoing pandemic. As mentioned above, the Corps oversees the majority of these critical infrastructure projects and, in this capacity, has continued to follow its bid schedule and prioritize all types of dredging including port maintenance and expansion and coastal protection projects that are necessary to avoid potential storm damage during the current hurricane season. Despite the uncertainty surrounding COVID-19, to date, the Corps is continuing to advertise new projects and the Company’s project work is largely uninterrupted.

## **Bidding Process**

Most of the Company’s contracts are obtained through competitive bidding on terms specified by the party inviting the bid. The types of equipment required to perform the specified service, project site conditions, the estimated project duration, seasonality, location and complexity of a project affect the cost of performing the contract and the price that dredging contractors will bid.

For contracts under its jurisdiction, the Corps typically prepares a fair and reasonable cost estimate based on the specifications of the project. To be successful, a bidder must be determined by the Corps to be a responsible bidder (i.e., a bidder that generally has the necessary equipment and experience to successfully complete the project as well as the ability to obtain a surety bid bond) and submit the lowest responsive bid that does not exceed 125% of the Corps’ original estimate. Contracts for state and local governments are generally awarded to the lowest qualified bidder. Contracts for private customers are awarded based on the contractor’s experience, equipment and schedule, as well as price. While substantially all of the Company’s contracts are competitively bid, some government contracts are awarded through a sole source procurement process involving negotiation between the contractor and the government, while other projects are bid by the Corps through a “request for proposal” process. The request for proposal process benefits both Great Lakes and its customers as customers can award contracts based on factors beyond price, including experience, skill and specialized equipment.

## **Bonding and Foreign Project Guarantees**

For most domestic projects and some foreign projects, dredging service providers are required to obtain three types of bonds: bid bonds, performance bonds and payment bonds. These bonds are typically provided by large insurance companies. A bid bond is required to serve as a guarantee so that if a service provider’s bid is chosen, the service provider will sign the contract. The amount of the bond is typically 20% of the service provider’s bid, with a range generally between \$1 and \$10 million. After a contract is signed, the bid bond is replaced by a performance bond, the purpose of which is to guarantee that the job will be completed. If the service provider fails to complete a job, the bonding company would be required to complete the job and would be entitled to be paid the contract price directly by the customer. Additionally, the bonding company would be entitled to be paid by the service provider for any costs incurred in excess of the contract price. A service provider’s ability to obtain performance bonds with respect to a particular contract depends upon the size of the contract, as well as the size of the service provider and its financial position. A payment bond is required to protect the service provider’s suppliers and subcontractors in the event that the service provider cannot make timely payments. Payment bonds are generally written at 100% of the contract value.

The Company has bonding agreements with Argonaut Insurance Company, Berkley Insurance Company, Chubb Surety and Liberty Mutual Insurance Company, (collectively, the “Sureties”) under which the Company can obtain performance, bid and payment bonds. The Company also has outstanding bonds with Travelers Casualty and Surety Company of America and Zurich American Insurance Company (“Zurich”). Great Lakes has never experienced difficulty in obtaining bonding for any of its projects and Great Lakes has never failed to complete a marine project in its 131 year history. For most foreign dredging projects, letters of credit or bank guarantees issued by foreign banks are required as security for the bid, performance and, if applicable, advance payment guarantees. The Company obtains its letters of credit under the Amended Credit Agreement (as defined below). Foreign bid guarantees are usually

2% to 5% of the service provider's bid. Foreign performance and advance payment guarantees are each typically 5% to 10% of the contract value.

## Competition

The U.S. dredging industry is highly fragmented with approximately 250 entities in the U.S. presently operating more than 850 dredges, primarily in maintenance dredging. Most of these dredges are smaller and service the inland, as opposed to coastal, waterways, and therefore do not generally compete with Great Lakes except in our rivers & lakes market. Competition is determined by the size and complexity of the job; equipment bonding and certification requirements; and government regulations. Competition on rivers & lakes projects is determined primarily based on geographic reach, project execution capability and price. Great Lakes and three other companies comprised approximately 80% of the Company's defined bid market related to domestic capital, coastal protection, maintenance and rivers & lakes over the prior three years. Within the Company's bid market, competition is determined primarily on the basis of price. In addition, the Foreign Dredge Act of 1906 (the "Dredging Act") and Section 27 of the Merchant Marine Act of 1920 (the "Jones Act") provide significant barriers to entry with respect to foreign competition. Together these two laws prohibit foreign-built, chartered or operated vessels from competing in the U.S. See "Business—Government Regulations" below.

Competition in the international market is dominated by four large European dredging companies all of which operate larger equipment and fleets that are more extensive than the Company's fleet. Additionally, a large Chinese dredging company has emerged as a key player in the international market. There are also several governmentally supported dredging companies that operate on a local or regional basis. The Company targets opportunities that are well suited to its equipment and where it can be most competitive.

## Equipment

Great Lakes' fleet of dredges, material barges and other specialized equipment is the largest and most diverse in the U.S. The Company operates three principal types of dredging equipment: hopper dredges, hydraulic dredges and mechanical dredges.

*Hopper Dredges.* Hopper dredges are typically self-propelled and have the general appearance of an ocean-going vessel. The dredge has hollow hulls, or "hoppers," into which material is suctioned hydraulically through drag-arms. Once the hoppers are filled, the dredge sails to the designated disposal site and either (i) bottom dumps the material or (ii) pumps the material from the hoppers through a pipeline to a designated site. Hopper dredges can operate in rough waters, are less likely than other types of dredges to interfere with ship traffic, and can be relocated quickly from one project to another. Hopper dredges primarily work on coastal protection and maintenance projects. The Company is currently building a 6,500 cubic yard trailing suction hopper dredge with expected delivery in the first quarter of 2023.

*Hydraulic Dredges.* Hydraulic dredges remove material using a revolving cutterhead which cuts and churns the sediment on the channel or ocean floor and hydraulically pumps the material by pipe to the disposal location. These dredges are very powerful and can dredge some types of rock. Certain dredged materials can be directly pumped for miles with the aid of multiple booster pumps. Hydraulic dredges work with an assortment of support equipment, which help with the positioning and movement of the dredge, handling of the pipelines and the placement of the dredged material. Unlike hopper dredges, relocating hydraulic dredges and all their ancillary equipment requires specialized vessels and additional time, and their operations can be impacted by ship traffic and rough waters. There is a wide range of hydraulic dredges from our smaller rivers & lakes vessels that use pipe sizes ranging from 10" to 22" and operate at between 365 and 3,200 total horsepower, while the Company's other hydraulic dredges use pipe sizes ranging from 18" to 30" and operate at between 1,900 and 16,650 total horsepower.

*Mechanical Dredges.* There are two basic types of mechanical dredges: clamshell and backhoe. In both types, the dredge uses a bucket to excavate material from the channel or ocean floor. The dredged material is placed by the bucket into material barges, or "scows," for transport to the designated disposal area. The scows are emptied by bottom-dumping, direct pump-out or removal by a crane with a bucket. The backhoe dredge is capable of removing hard-packed sediments, blasted rock and debris and can work in tight areas such as along docks or terminals. Clamshell dredges with specialized buckets are ideally suited to handle softer silts and maintenance material requiring environmentally controlled excavation and disposal. Additionally, the Company owns an electric clamshell dredge which provides an advantage in those markets with stringent emissions standards.

*Scows.* The Company has the largest fleet of material barges in the domestic industry, which provides cost advantages when dredged material is required to be disposed far offshore or when material requires controlled disposal. The Company uses scows with its hydraulic dredges and mechanical dredges. Scows are an efficient and cost-effective way to move material and increase dredging production. The Company has twelve scows in its fleet with a capacity ranging from 5,000 to 8,800 cubic yards. The Company is currently in the process of building three new scows, each 7,100 cubic yards in size, with expected delivery in 2022.



In addition, the Company has numerous pieces of smaller equipment that support its dredging operations. Great Lakes' domestic dredging fleet is typically positioned on the East and Gulf Coasts, with a smaller number of vessels occasionally positioned on the West Coast, and with many of the rivers & lakes dredges on inland rivers and lakes. The mobility of the fleet enables the Company to move equipment in response to changes in demand.

The Company continually assesses its need to upgrade and expand its dredging fleet to take advantage of improving technology and to address the changing needs of the dredging market.

The Company is also committed to a reliability-assured maintenance program, which it believes is reflected in the long lives of most of its equipment and its low level of unscheduled downtime on jobs. To the extent that market conditions warrant the expenditures, Great Lakes can prolong the useful life of its vessels.

Certification of equipment by the U.S. Coast Guard and establishment of the permissible loading capacity by the American Bureau of Shipping ("A.B.S.") are important factors in the Company's dredging business. Many projects, such as coastal protection projects with offshore sand borrow sites and dredging projects in exposed entrance channels or with offshore disposal areas, are restricted by federal regulations to be performed only by dredges or scows that have U.S. Coast Guard certification and a load line established by A.B.S. The certifications indicate that the dredge is structurally capable of operating in open waters. The Company has more certified dredging vessels than any of the Company's domestic competitors and makes substantial investments to maintain these certifications.

### **Seasonality**

Seasonality generally does not have a significant impact on the Company's operations. However, many East Coast coastal protection projects are limited by environmental windows that require work to be performed in winter months to protect wildlife habitats. The Company can mitigate the impact of these environmental restrictions to a certain extent because the Company has the flexibility to reposition its equipment to project sites, if available, that are not limited by these restrictions. In addition, rivers and lakes in the northern U.S. freeze during the winter, significantly reducing the Company's ability to operate and transport its equipment in the relevant geographies. Fish spawning and flooding can affect dredging operations as well.

### **Weather**

The Company's ability to perform its contracts may depend on weather conditions. Inclement or hazardous weather conditions can delay the completion of a project, can result in disruption or early termination of a project, unanticipated recovery costs or liability exposure and additional costs. As part of bidding on fixed-price contracts, the Company makes allowances, consistent with historical weather data, for project downtime due to adverse weather conditions. In the event that the Company experiences adverse weather beyond these allowances, a project may require additional days to complete, resulting in additional costs and decreased gross profit margins. Conversely, favorable weather can accelerate the completion of the project, resulting in cost savings and increased gross profit margins. Typically, Great Lakes is exposed to significant weather in the first and fourth quarters, and certain projects are required to be performed in environmental windows that occur during these periods. See "Business-Seasonality" above.

Weather is difficult to predict and historical records exist for only the last 100-125 years. Changes in weather patterns may cause a deviation from project weather allowances on a more frequent basis and consequently increase or decrease gross profit margin, as applicable, on a project-by-project basis. In a typical year, the Company works on many projects in multiple geographic locations and experiences both positive and negative deviations from project weather allowances.

### **Backlog**

The Company's contract backlog represents its estimate of the revenues that will be realized under the portion of the contracts remaining to be performed. These estimates are based primarily upon the time and costs required to mobilize the necessary assets to and from the project site, the amount and type of material to be dredged and the expected production capabilities of the equipment performing the work. However, these estimates are necessarily subject to variances based upon actual circumstances. Because of these factors, as well as factors affecting the time required to complete each job, backlog is not always indicative of future revenues or profitability. In addition, a significant amount of the Company's backlog relates to federal government contracts, which can be canceled at any time without penalty, subject to the Company's right, in some cases, to recover the Company's actual committed costs and profit on work performed up to the date of cancellation. The Company's backlog may fluctuate significantly from quarter to quarter based upon the type and size of the projects the Company is awarded from the bid market. A quarterly increase or decrease of the Company's backlog does not necessarily result in an improvement or a deterioration of the Company's business. The Company's backlog includes only those projects for which the Company has obtained a signed contract with the customer. The components of the Company's backlog including dollar amount and other related information are addressed in more detail in Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations—Bidding Activity and Backlog."

## Human Capital Management

At December 31, 2021, the Company employed 413 full-time salaried personnel in the U.S., including those in a corporate function. In addition, the Company employs U.S. hourly personnel, most of whom are unionized, on a project-by-project basis. Crews are generally available for hire on relatively short notice. During 2021, the Company employed an average of approximately 818 hourly personnel to meet domestic project requirements.

At December 31, 2021, the Company employed 6 foreign nationals and 2 local staff to manage and administer its Middle East operations. During 2021, the Company also employed an average of 2 hourly personnel to meet project requirements in the Middle East.

We seek to identify, recruit, retain, incentivize and integrate our existing and future employees. To achieve our goal of attracting and retaining the most talented employees in the industry, we offer competitive compensation and benefits that support their physical, financial, and emotional health. The principal objective of our equity incentive plans is to attract, retain and motivate selected employees and directors through the granting of stock-based compensation awards. We offer employees benefits including a 401(k) plan with employer contributions; health, life, and disability insurance; additional voluntary insurance; paid time off and parental leave; and paid counseling assistance.

### *Safety*

Safety of its employees is one of the Company's core values. The Company employs behavioral and system-based programs utilizing an Incident & Injury Free® (IIF®) approach. The Company's safety culture is committed to training, behavioral based awareness and mutual responsibility for the wellbeing of its employees. The Company's goal is sustainable safety excellence. Incident prevention in all areas has top priority in the Company's business planning, in the overall conduct of its business, and in the operation and maintenance of our equipment (marine and land) and facilities.

During the ongoing COVID-19 pandemic, the health and safety of our employees are our primary goal. Our commitment to health and safety during the pandemic reaches for beyond our employees and embraces their families, our customers, and our community. The unique nature of our business requires many of our employees to live and work in close proximity to one another. We have instituted and strictly adhere to rigorous measures designed to provide our employees with a safe working environment and allow them to safely execute tasks. We follow enhanced safety and health protocols—including screenings, social distancing, and use of personal protective equipment. We have mandated and strictly implemented a robust at-home virus testing program, and mandate virus testing before boarding our vessels and before leaving our vessels. Access to all of our facilities is restricted to only those persons who have been vaccinated against COVID-19 or have received an accommodation. Pre-access and periodic COVID-19 testing is mandatory.

### *Relocation of our Corporate Headquarters*

In October 2020, we announced that we would relocate our headquarters from Oakbrook Terrace, Illinois to Houston, Texas. We began the transition of key members of the management team to Houston in January 2021. Further transition of key personnel is ongoing. While one of the objectives of the relocation was improving our ability to secure more public and private business opportunities in our core coastal areas, including the Gulf of Mexico, our relocation also provides us access to a unique talent pool that has roots in the maritime industries as well as world class engineering experience and innovation. Access to research and development initiatives at Texas A&M University, boasting the only dredging-focused course of study in the United States, is only 90 miles away, and two other campuses with emphasis on coastal and offshore studies are also nearby. The region is known for its robust community college and technical school system that provides skilled labor and training to the maritime trades. Our new Houston location will allow us to increase our engagement with other local maritime businesses, giving us the opportunity to learn and improve by sharing the best industry practices for safety, operations, and innovation.

### *Unions*

The Company is a party to numerous collective bargaining agreements in the U.S. that govern its relationships with its unionized hourly workforce. However, two unions represent a large majority of our dredging employees - the International Union of Operating Engineers ("IUOE") Local 25 and the Seafarers International Union. The Company's master and ancillary contracts with IUOE Local 25 expire in September 2024. Our agreements with Seafarers International Union expire in February 2023. The Company has not experienced any major labor disputes in the past five years and believes it has good relationships with the unions that represent a significant number of its hourly employees; however, there can be no assurances that the Company will not experience labor strikes or disturbances in the future.

## Government Regulations

The Company is subject to government regulations pursuant to the Dredging Act, the Jones Act, the Shipping Act, 1916 (the "Shipping Act") and the vessel documentation laws set forth in Chapter 121 of Title 46 of the United States Code. These statutes require vessels engaged in dredging in the navigable waters of the United States to be documented with a coastwise endorsement, to be owned and controlled by U.S. citizens, to be manned by U.S. crews, and to be built in the United States. The U.S. citizen ownership and control standards require the vessel-owning entity to be at least 75% U.S. citizen owned and prohibit the chartering of the vessel to any entity that does not meet the 75% U.S. citizen ownership test.

## Environmental Matters

The Company's operations, facilities and vessels are subject to various environmental laws and regulations related to, among other things: dredging operations; the disposal of dredged material; protection of wetlands; storm water and waste water discharges; demolition activities; asbestos removal; transportation and disposal of wastes and materials; air emissions; and remediation of contaminated soil, sediments, surface water and groundwater. The Company is also subject to laws designed to protect certain marine species and habitats. Compliance with these statutes and regulations can delay appropriation and/or performance of particular projects and increase related project costs. Non-compliance can also result in fines, penalties and claims by third parties seeking damages for alleged personal injury, as well as damages to property and natural resources.

Certain environmental laws such as the U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Clean Water Act and the Oil Pollution Act of 1990 impose strict and, under some circumstances joint and several, liability on owners and operators of facilities and vessels for investigation and remediation of releases and discharges of regulated materials, and also impose liability for related damages to natural resources. The Company's past and ongoing operations involve the use, and from time to time the release or discharge, of regulated materials which could result in liability under these and other environmental laws. The Company has remediated known releases and discharges as deemed necessary, but there can be no guarantee that additional costs will not be incurred if, for example, third party claims arise or new conditions are discovered.

The Company's projects may involve remediation, demolition, excavation, transportation, management and disposal of hazardous waste and other regulated materials. Various laws strictly regulate the removal, treatment and transportation of hazardous water and other regulated materials and impose liability for human health effects and environmental contamination caused by these materials. The Company takes steps to limit its potential liability by hiring qualified subcontractors from time to time to remove such materials from our projects, and some project contracts require the client to retain liability for hazardous waste generation.

Based on the Company's experience and available information, the Company believes that the future cost of compliance with existing environmental laws and regulations (and liability for known environmental conditions) will not have a material adverse effect on the Company's business, financial position, results of operations or cash flows. However, the Company cannot predict what environmental legislation or regulations will be enacted in the future, how existing or future laws or regulations will be enforced, administered or interpreted, or the amount of future expenditures that may be required to comply with these environmental or health and safety laws or regulations or to respond to newly discovered conditions, such as future cleanup matters or other environmental claims.

## Information about our Executive Officers

The following table sets forth the names and ages of all of the Company's executive officers and the positions and offices presently held by them.

<b>Name</b>	<b>Age</b>	<b>Position</b>
Lasse J. Petterson	65	President, Chief Executive Officer and Director
Scott Kornblau	50	Senior Vice President, Chief Financial Officer and Treasurer
David E. Simonelli	65	Chief Operating Officer
Vivienne R. Schiffer	62	Senior Vice President, Chief Legal Officer, Chief Compliance Officer and Corporate Secretary
James J. Tastard	57	Senior Vice President and Chief Human Resources and Administrative Officer
William H. Hanson	65	Senior Vice President—Government Relations and Business Development

### *Lasse J. Petterson, President, Chief Executive Officer and Director*

Mr. Petterson has served as Chief Executive Officer ("CEO") since May 2017 and was also named President in 2020. Mr. Petterson most recently had served as a private consultant to clients in the Oil & Gas sector and served as Chief Operating Officer ("COO") and Executive Vice President at Chicago Bridge and Iron ("CB&I") from 2009 to 2013. Reporting directly to the CEO, he was responsible for all of CB&I's engineering, procurement and construction project operations and sales. Prior to CB&I, Mr. Petterson was CEO of Gearbulk, Ltd., a privately held company that owns and operates one of the largest fleets of gantry craned open hatch bulk vessels in the world. He was also President and COO of AMEC Inc. Americas, a subsidiary of AMEC plc, a British multinational consulting, engineering and project management company. Prior to joining AMEC, Mr. Petterson served in various executive and operational positions for Aker Maritime, Inc., the deepwater division of Aker Maritime ASA of Norway over the course of 20 years. He spent the first nine years of his career in various positions at Norwegian Contractors, an offshore oil & gas platform contractor. Mr. Petterson holds both master's and bachelor's degrees from the Norwegian University of Technology.

*Scott Kornblau, Senior Vice President, Chief Financial Officer and Treasurer*

Mr. Kornblau was named Senior Vice President and Chief Financial Officer (“CFO”) when he joined the Company in October 2021 and was additionally named Treasurer in January 2022. In his over 25 years of professional experience prior, Mr. Kornblau has held various finance and leadership positions at Diamond Offshore Drilling, Inc. (“Diamond”), most recently as Senior Vice President and Chief Financial Officer since July 2018. Prior to Mr. Kornblau’s appointment as CFO, he held the roles of acting CFO since December 2017 in addition to his Vice President and Treasurer position at Diamond since January 2017. Mr. Kornblau earned a Bachelor of Arts degree in Accounting from the University of Texas at Austin. Mr. Kornblau is a certified public accountant.

*David E. Simonelli, Chief Operating Officer*

Mr. Simonelli was named Chief Operating Officer in March 2020. Mr. Simonelli was most recently President—Dredging Division, a title held since April 2010. Mr. Simonelli has overall responsibility for the Dredging Division which includes safety, estimating, engineering, domestic and international operations and plant and equipment. He was named a Vice President of the Company in 2002 and Special Projects Manager in 1996. He joined the Company in 1978 as a Civil Engineer and has since held positions of increasing responsibility in domestic and international operations and project management. Mr. Simonelli earned a Bachelor of Science degree in Civil and Environmental Engineering from the University of Rhode Island. He is a member of the Hydrographic Society, the American Society of Civil Engineers and the Western Dredging Association.

*Vivienne R. Schiffer, Senior Vice President, Chief Legal Officer, Chief Compliance Officer and Corporate Secretary*

Ms. Schiffer was named Senior Vice President, Chief Legal Officer, Chief Compliance Officer and Corporate Secretary in December 2020 when she joined the Company. Ms. Schiffer leads the Company’s legal and compliance organization, providing legal counsel. Ms. Schiffer’s specific responsibilities include the oversight of corporate governance, policy and regulatory strategy development, litigation, environmental matters, intellectual property, global corporate compliance and labor and employment laws. Ms. Schiffer was a corporate and securities partner in the global firm of Thompson & Knight, LLP, from 2003 to 2010. She was of counsel in the firm’s corporate and securities section from 2011 until 2020. She has over 37 years of experience and has held significant legal, business and operational leadership roles in the industrials sector. Ms. Schiffer earned a Bachelor of Science degree from the University of Central Arkansas and a Juris Doctor degree from Tulane University.

*James J. Tastard, Senior Vice President and Chief Human Resources and Administrative Officer*

Mr. Tastard was named Senior Vice President and Chief Human Resources and Administrative Officer in October 2020. He is responsible for the Company’s Human Resources organization, talent management, leadership development and learning, compensation and benefits, employee relations, payroll, risk management, marketing and communications and environment, social and governance (ESG). Mr. Tastard most recently served as President and Founder of High Performance Network, LLC since 2018 as a strategic talent and leadership consultant. Prior to consulting, he worked as Senior Vice President, Chief Human Resource Officer at Geokinetics, a global seismic oil and gas exploration company, from 2017 to 2018. From 2014 to 2016, Mr. Tastard was Vice President of Human Resources at Freeport LNG and from 2010 to 2014, Mr. Tastard was Vice President of Human Resources at Statoil (now Equinor). Prior to Statoil, between 2002 to 2009, Mr. Tastard was Senior Vice President Human Resources and Health, Safety and Environment at Aker Solutions. Mr. Tastard earned a bachelor’s degree from California State University, Long Beach, an MBA from the University of Phoenix and a Ph.D. in Business, Organization and Management from Capella University.

*William H. Hanson, Senior Vice President - Government Relations & Business Development*

Mr. Hanson was named the Senior Vice President - Government Relations & Business Development in March 2020. He was named Vice President of the Company in 2004. He joined the Company in 1988. Mr. Hanson was most recently with Connolly Pacific of Long Beach, California. Prior to his work at Connolly Pacific, Mr. Hanson was with the U.S. Army Corps of Engineers. Mr. Hanson serves on several Federal Advisory Committees as well as on boards of groups with national and regional interest to the Company and several academic advisory boards related to ocean and coastal engineering. Mr. Hanson is an Ocean Engineering graduate of Texas A&M University where he was named a distinguished alumnus in 2013.

**Availability of Information**

You may read and obtain copies of any materials Great Lakes files with the SEC, including without limitation, the Company’s Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, free of charge, at the SEC’s website, [www.sec.gov](http://www.sec.gov). Great Lakes’ SEC filings are also available to the public, free of charge, on our corporate website, [www.gldd.com](http://www.gldd.com), at “Investors – Financials & Filings”, as soon as reasonably practicable after Great Lakes electronically files such material with, or furnishes it to, the SEC. The reference to the Company’s website does not constitute incorporation by reference of information contained on or accessible through such website.

## Item 1A. Risk Factors

The following risk factors address the material risks and uncertainties concerning our business. You should carefully consider the following risks and other information contained or incorporated by reference into this Annual Report on Form 10-K when evaluating our business and financial condition and an investment in our common stock. Should any of the following risks or uncertainties develop into actual events, such developments could have material adverse effects on our business, financial condition, cash flows or results of operations. Risks not currently known to the Company or that the Company currently deems to be immaterial may also materially and adversely affect the Company's business, operating results, financial condition and the actual outcome of matters as to which forward-looking statements are made in this report.

We have grouped our Risk Factors under captions that we believe describe various categories of potential risk. For the reader's convenience, we have not duplicated risk factors that could be considered to be included in more than one category.

### Risk Factor Summary

The following is a summary of the principal risks that could adversely affect, or have adversely affected, the Company's business, operating results and financial condition:

- The impact of the COVID-19 pandemic and related responsive measures, including productivity impacts and increased expenditures;
- Our ability to obtain and retain federal government dredging and other contracts, which is impacted by the amount of government funding for dredging and other projects and the degree to which government funding is directed to the Corps and certain other customers, which in turn could be impacted by extended federal government shutdowns or declarations of additional national emergencies;
- Our ability to qualify as an eligible bidder under government contract criteria and to compete successfully against other qualified bidders in order to obtain government dredging and other contracts;
- Cost over-runs, operating cost inflation and potential claims for liquidated damages, particularly with respect to our fixed cost contracts;
- The timing of our performance on contracts and new contracts being awarded to us;
- Significant liabilities that could be imposed were we to fail to comply with government contracting regulations;
- Increasing costs to operate and maintain aging vessels and comply with applicable regulations or standards;
- Equipment or mechanical failures;
- Impacts to our facilities and suppliers from pandemics, epidemics or outbreaks of infectious disease affecting our markets;
- Impacts to our supply chain for procurement of new vessel build materials;
- Our international dredging operations;
- Instability and declining relationships amongst certain governments in the Middle East and the impact this may have on infrastructure investment, asset value of such operations, and local licensing, permitting and royalty issues;
- Capital and operational costs due to environmental regulations;
- Market and regulatory responses to climate change;
- Contract penalties for any projects that are completed late;
- Force majeure events, including natural disasters, pandemics and terrorists' actions;
- Changes in the amount of our estimated backlog;
- Significant negative changes attributable to large, single customer contracts;
- Our ability to obtain financing for the construction of new vessels, including our new offshore wind vessel;
- Potential inability to secure contracts to utilize new offshore wind vessel;
- Unforeseen delays and cost overruns related to the construction of new vessels, including potential mechanical and engineering issues and unforeseen changes in environmental regulations;
- Any failure to comply with Section 27 of the Jones Act provisions on coastwise trade, or if those provisions were modified or repealed;
- Fluctuations in fuel prices, particularly given our dependence on petroleum-based products;
- Impacts of nationwide inflation on procurement of new build materials;
- Our ability to obtain bonding or letters of credit and risks associated with draws by the surety on outstanding bonds or calls by the beneficiary on outstanding letters of credit;
- Acquisition integration and consolidation, including transaction expenses, unexpected liabilities and operational challenges and risks;
- Divestitures and discontinued operations, including retained liabilities from businesses that we sell or discontinue;
- Potential penalties and reputational damage as a result of legal and regulatory proceedings, including a pending criminal proceeding in Louisiana;
- Any liabilities imposed on us for the obligations of joint ventures, partners and subcontractors;
- Increased costs of certain material used in our operations due to newly imposed tariffs;

- Unionized labor force work stoppages;
- Any liabilities for job-related claims under federal law, which does not provide for the liability limitations typically present under state law;
- Operational hazards, including any liabilities or losses relating to personal or property damage resulting from our operations;
- Our ability to identify and contract with qualified MBE or DBE contractors to perform as subcontractors;
- Our substantial amount of indebtedness, which makes us more vulnerable to adverse economic and competitive conditions;
- Restrictions on the operation of our business imposed by financing covenants;
- Impacts of adverse capital and credit market conditions on our ability to meet liquidity needs and access capital;
- Our ability to maintain or expand our credit capacity;
- Limitations on our hedging strategy imposed by statutory and regulatory requirements for derivative transactions;
- Foreign exchange risks, in particular, as it relates to the new offshore wind vessel build;
- Losses attributable to our investments in privately financed projects;
- Restrictions on foreign ownership of our common stock;
- Restrictions imposed by Delaware law and our charter on takeover transactions that stockholders may consider to be favorable;
- Restrictions on our ability to declare dividends imposed by our financing agreements and Delaware law;
- Significant fluctuations in the market price of our common stock, which may make it difficult for holders to resell our common stock when they want or at prices that they find attractive;
- Changes in previously recorded net revenue and profit as a result of the significant estimates made in connection with our methods of accounting for recognized revenue;
- Maintaining an adequate level of insurance coverage;
- Our ability to find, attract and retain key personnel and skilled labor;
- Disruptions, failures, data corruptions, cyber-based attacks or security breaches of the information technology systems on which we rely to conduct our business; and
- Impairments of our goodwill or other intangible assets.

### **Risks Related to the COVID-19 Pandemic**

In December 2019, a novel strain of coronavirus (COVID-19) was reported to have surfaced in Wuhan, China. COVID-19 has since spread worldwide and to every state in the United States. On March 11, 2020, the World Health Organization declared COVID-19 a pandemic and on March 13, 2020 the United States declared a national emergency in response to the COVID-19 outbreak. This outbreak has severely impacted global economic activity and many countries and states in the United States have reacted by instituting quarantines, mandating school and business closures and limiting travel.

Our clients, the Corps, private clients and other federal or state agencies, have been impacted by the COVID-19 pandemic. These impacts have led to delays in some of our projects. If the pandemic is prolonged, it may lead to additional delays or cancellations in current or future projects. Funds for dredging projects may also be diverted for public health, economic, or other priorities. Even after the COVID-19 pandemic has subsided, we may experience adverse impacts to our business as a result of its effect on global economies and financial markets, including any recession or economic downturn that has occurred or may occur in the future.

In addition to project delays, the COVID-19 pandemic may affect, our business, including, but not limited to, in the following ways:

- While much of our client base is federal, state, or other governmental entities, some of our clients may be unable to meet their payment obligations to us in a timely manner, including as a result of deteriorating financial conditions or bankruptcy resulting from the COVID-19 pandemic and resulting economic impacts. Further, other third parties, such as suppliers, subcontractors, and other outside business partners, may experience significant disruptions in their ability to fulfill their obligations toward us, or they may not be able to fulfill their obligations to us at all.
- Much of our work is conducted on vessels, where our crew is required to live for extended periods of time. We have experienced, and may continue to experience, temporary work stoppages because of viral outbreaks on board our vessels. Temporary work stoppages may lead to decreased revenue and affect our ability to timely and satisfactorily complete our clients' projects.
- The Biden Administration has issued an executive order, that while currently stayed, requires federal contractors to, among other things, ensure the vaccination of all employees against COVID-19, and to require all subcontractors to do the same. If these, or other federal, state or local government mandates are reinstated or enacted, we may not be

able to find employees and subcontractors who will qualify under then-in-effect mandate requirements, which may impair our ability to successfully perform federal contracts.

- Our vaccination requirements have limited, and may continue to result in limiting our ability to find qualified personnel to perform the duties required under our contracts.
- Viral outbreaks on board our vessels have required us, and may continue to require us, to incur additional expenses to protect the health and safety of our employees, our clients, and other business partners. These costs include regular, mandated testing for our employees before they leave their homes and travel to the vessel, before they board the vessel, and before they leave the vessel to return home; disinfection of vessels; costs associated with accommodations for crew members who are quarantined or otherwise unable to board a vessel or return home; and overtime costs associated with the extended length of time crew members may be required to work or be available because of COVID-19 safety measures.
- In addition to existing travel restrictions implemented in response to the COVID-19 pandemic, jurisdictions may continue to close borders, impose prolonged quarantines and further restrict travel and business activity, which could impair our ability to support our operations and clients (both domestic and international), to source supplies through the global supply chain and to identify, pursue and capture new business opportunities, and which could restrict the ability of our employees to access their workplaces. We also face the possibility of increased overhead or other expenses resulting from compliance with any future government orders or other measures enacted in response to the COVID-19 pandemic.
- COVID-19 travel restrictions have limited, and may continue to limit, the ability of our senior personnel to conduct on-site project visits, which may lead to operational inefficiencies and may negatively impact the performance of our projects.

We are unable at this time to quantify the extent to which the continued global spread of the COVID-19 pandemic may adversely affect our business, financial condition, and results of operations, including the duration and magnitude of such impacts. The impacts from this unprecedented global event will depend on numerous evolving factors that we may not be able to accurately predict or assess. COVID-19, and the volatile regional and global economic conditions stemming from the pandemic, as well as reactions to future pandemics or resurgences of COVID-19, could also precipitate or aggravate the other risk factors that we identify in this Annual Report on Form 10-K, which in turn could materially adversely affect our business, financial condition and results of operations. There may be other adverse consequences to our business, financial condition and results of operations from the spread of COVID-19 that we have not considered or have not become apparent. As a result, we cannot assure you that if the COVID-19 pandemic persists or worsens, it would not have an adverse impact on our business, financial condition and results of operations.

### Risks Related to our Business

***A reduction in government funding for dredging or other contracts, or government cancellation of such contracts, could materially adversely affect our business operations, revenues and profits.***

A substantial portion of our revenue is derived from federal government contracts, particularly dredging contracts. Revenues related to dredging contracts with federal agencies or companies operating under contracts with federal agencies and the percentage as a total of dredging revenue for the years ended December 31, 2021, 2020 and 2019 were as follows:

	Year Ended December 31,		
	2021	2020	2019
Federal government revenue (in US \$1,000)	\$ 568,980	\$ 582,949	\$ 581,157
Percent of revenue from federal government	78%	79%	82%

Amounts spent by the federal government on dredging are subject to the budgetary and legislative processes. We would expect the federal government to continue to improve and maintain ports as it has for many years, which will necessitate a certain level of federal spending. However, there can be no assurance that the federal government will allocate any particular amount or level of funds to be spent on dredging projects for any specified period. In addition, Congress must approve budgets that govern spending by many of the federal agencies we support. When Congress is unable to agree on budget priorities, and thus is unable to pass the annual budget on a timely basis, Congress typically enacts a continuing resolution. A continuing resolution allows U.S. federal government agencies to operate at spending levels approved in the previous budget cycle. Under a continuing resolution, funding may not be available for new projects or may be delayed on current projects. Any such funding delays would likely result in new projects being delayed or canceled and could have a material adverse effect on our revenue and operating results. Furthermore, a failure to complete the budget process and fund government operations pursuant to a continuing resolution may result in a U.S. federal government shutdown. An extended shutdown may result in us incurring substantial costs without reimbursement under our contracts and the delay or cancellation of key projects, which could have a material adverse effect on our revenue and operating results.

In addition, potential contract cancellations, modifications, protests, suspensions or terminations may arise from resolution of these issues and could cause our revenues, profits and cash flows to be lower. Federal government contracts can be canceled at any time without penalty to the government, subject to, in most cases, our contractual right to recover our actual committed costs and profit on work performed up to the date of cancellation. Accordingly, there can be no assurance that the federal government will not cancel any federal government contracts that have been or are awarded to us. Even if a contract is not cancelled, the government may elect to not award further work pursuant to a contract. There is no guarantee that the current Administration will not divert funds away from the Corps or from our other customers relying on funding from the federal government. There is also no guarantee that additional national emergencies will not be declared in the future. A significant reduction in government funding for dredging or remediation contracts could materially adversely affect our business, operations, revenues and profits.

***Our inability to qualify as an eligible bidder for government contracts or to compete successfully with other qualified bidders for certain contracts could materially adversely affect our business operations, revenues and profits.***

The U.S. government and various state, local and foreign government agencies conduct rigorous competitive processes for awarding many contracts. Some contracts include multiple award task order contracts in which several contractors are selected as eligible bidders for future work. We will face strong competition and pricing pressures for any additional contract awards from the U.S. government and other domestic and foreign government agencies, and we may be required to qualify or continue to qualify under various multiple award task order contract criteria. Further, much of our work depends on our compliance with environmental and other regulations. Any claim by the government that we have violated any laws or regulations could result in our suspension or debarment from bidding for or being awarded government contracts. Our inability to qualify as an eligible bidder under government contract criteria could preclude us from competing for certain government contract awards. In addition, our inability to qualify as an eligible bidder, or to compete successfully when bidding for certain government contracts and to win those contracts, could materially adversely affect our business, operations, revenues and profits.

***Our significant number of fixed-price contracts subjects us to risks associated with cost over-runs, operating cost inflation and potential claims for liquidated damages. If we are unable to accurately estimate our project costs our profitability could suffer.***

We conduct our business under various types of contracts where costs are estimated in advance of our performance. Most dredging contracts are fixed-price contracts where the customer pays a fixed price per unit (e.g., cubic yard) of material dredged. Fixed-price contracts carry inherent risks, including risks of losses from underestimating costs, operational difficulties, and other changes that can occur over the contract period. If our estimates prove inaccurate, if there are errors or ambiguities as to contract specifications, or if circumstances change due to, among other things, unanticipated conditions or technical problems, difficulties in obtaining permits or approvals, changes in local laws or labor conditions, inclement or hazardous weather conditions, changes in cost of equipment or materials, or our suppliers' or subcontractor's inability to perform, then cost over-runs and delays in performance are likely to occur. We may not be able to obtain compensation for additional work performed or expenses incurred, or may be delayed in receiving necessary approvals or payments. Additionally, we may be required to pay liquidated damages upon our failure to meet schedule or performance requirements of our contracts. If we were to significantly underestimate the costs on one or more significant contracts, the resulting losses could have a material adverse effect on our business, operating results, cash flows or financial condition.

***Our quarterly and annual operating results may vary significantly based on the timing of contract awards and performance.***

Our quarterly and annual results of operations have fluctuated from period to period in the past and may continue to fluctuate in the future. Accordingly, you should not rely on the results of any past quarter or quarters as an indication of future performance in our business operations or valuation of our stock. Our operating results could vary greatly from period to period due to factors such as:

- the timing of contract awards and the commencement or progress of work under awarded contracts;
- inclement or hazardous weather conditions that may result in underestimated delays in dredging, disruption or early termination of projects, unanticipated recovery costs or liability exposure, and additional contract expenses;
- planned and unplanned equipment downtime, or equipment mobilization to and from projects, including those due to the impacts of COVID-19;
- our ability to recognize revenue from pending change orders, which is recognized only when the parties to a contract approve a modification that either creates new, or changes existing, enforceable rights and obligations of the parties to the contract; and
- environmental restrictions requiring that certain projects be performed in winter months to protect wildlife habitats.

If our results of operations from quarter to quarter fail to meet the expectations of public market analysts and investors, our stock price could be negatively impacted. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Primary Factors that Determine Operating Profitability."



***If we fail to comply with government contracting regulations, we could be subject to significant potential liabilities and loss of revenue.***

Our contracts with federal, state, local and foreign governmental customers are subject to various procurement regulations and contract provisions. These regulations also subject us to examinations by government auditors and investigators, from time to time, to ensure compliance and to review costs. Violations of government contracting regulations could result in the imposition of civil and criminal penalties, which could include termination of contracts, forfeiture of profits, imposition of payments and fines and suspension or debarment from future government contracting. If we fail to continue to qualify for or are suspended from work under a government contract for any reason, we could suffer a material adverse effect on our business, operating results, cash flows or financial condition.

In addition, we may be subject to litigation brought by private individuals on behalf of the government relating to our government contracts, referred to in this annual report as “*qui tam*” actions, which could include claims for up to treble damages. *Qui tam* actions are sealed by the court at the time of filing. The only parties privy to the information in the complaint are the complainant, the U.S. government and the court. Therefore, it is possible that *qui tam* actions have been filed against us and that we are not aware of such actions or have been ordered by the court not to discuss them until the seal is lifted. Thus, it is possible that we are subject to liability exposure arising out of *qui tam* actions.

***Costs necessary to operate and maintain our vessels tend to increase with the age of the vessel, and costs of such maintenance, as well as costs associated with new build programs, may also increase due to changes in applicable regulations or standards, which could decrease our profits.***

Capital expenditures and other costs necessary to operate and maintain our vessels tend to increase with the age of the vessel. Accordingly, it is likely that the operating costs of our vessels will increase.

The average age of our more significant vessels as of December 31, 2021, by equipment type, is as follows:

<u>Type of Equipment</u>	<u>Quantity</u>	<u>Average Age in Years</u>
Hydraulic Dredges	8	43
Hopper Dredges	5	30
Mechanical Dredges	5	49
Unloaders	1	38
Drillboats	1	38
Material and Other Barges	107	20
Total	127	23

Remaining economic life has not been presented, because it is not reasonably quantifiable. That is because, to the extent that market conditions warrant the expenditures, we can prolong the vessels’ lives. In our domestic market, we operate in an industry where a significant portion of our competitors’ equipment is of a similar age. It is common in the dredging industry to make maintenance and capital expenditures in order to extend the economic life of equipment.

In addition, changes in governmental regulations, safety or other equipment standards, as well as compliance with standards imposed by maritime self-regulatory organizations, standards imposed by vessel classification societies and customer requirements or competition, may require us to make significant additional expenditures. For example, if the U.S. Coast Guard enacts new standards, we may be required to incur expenditures for alterations or the addition of new equipment (e.g. more fuel-efficient engines). In order to satisfy any such requirements, we may need to take our vessels out of service for extended periods of time, with corresponding losses of revenues.

***Equipment or mechanical failures could result in increased costs, project delays and reduced revenues.***

The successful performance of contracts requires a high degree of reliability of our vessels, barges and other equipment. The average age of our marine fleet as of December 31, 2021 was 23 years. Breakdowns not only add to the costs of executing a project, but they can also delay the completion of subsequent contracts, which are scheduled to utilize the same assets. We operate a scheduled maintenance program in order to keep all assets in good working order, but despite this, breakdowns can and do occur, resulting in loss of revenue.

***A pandemic, epidemic or outbreak of an infectious disease affecting our markets or impacting our facilities or suppliers could adversely impact our business.***

If another pandemic, epidemic, or outbreak of an infectious disease or other public health crisis, including an unexpected increase in COVID-19 infections, were to affect our markets or facilities or those of our suppliers, our business could be adversely affected. Another pandemic or the continuation or an increase of the current COVID-19 pandemic could cause disruptions in and restrictions on our ability to travel, and in the future these disruptions and restrictions could restrict our ability to perform work for future projects in different locations. If an infectious disease were to have a widespread outbreak at one or more of our vessels or facilities, our operations may be affected significantly, our productivity may be affected, key personnel necessary to conduct our operations or replacement crew may be unavailable, our ability to complete projects in accordance with our contractual obligations may be affected, and we may incur increased labor and materials costs. If the shipyards with which we contract were affected by an outbreak of infectious disease, repairs of our vessels as well as new construction may be delayed and we may incur increased labor and materials costs. In addition, we may experience difficulties with certain suppliers or with vendors in their supply chains, and our business could be affected if we become unable to procure essential supplies or services in adequate quantities and at acceptable prices.

Our clients, which are the Corps, private clients and other federal, state or local agencies, may be impacted by a pandemic, and if prolonged, these impacts may lead to cancelations or delays in projects. Funds for dredging projects may also be diverted for public health, economic, or other priorities. Overall, the potential impact of a pandemic, epidemic or outbreak of an infectious disease with respect to our markets or our facilities is difficult to predict and could adversely impact our business.

***Disruptions to our supply chain affecting our markets or impacting our facilities or suppliers could prohibit procurement of new vessel build materials and adversely impact our business.***

Supply chain issues could cause disruptions that restrict our ability to perform work for future projects. Our ability to complete projects in accordance with our contractual obligations may be affected, and we may incur increased labor and materials costs. If the shipyards with which we contract are affected, repairs of our vessels as well as new construction may be delayed and we may incur increased labor and materials costs. In addition, we may experience difficulties with certain suppliers or with vendors in their supply chains, and our business could be affected if we become unable to procure essential supplies or services in adequate quantities and at acceptable prices.

***Our international dredging operations subject us to competitive, political, regulatory and other risks.***

Revenue from foreign contracts and its percentage to total dredging revenue for the years ended December 31, 2021, 2020 and 2019 were as follows:

	Year Ended December 31,		
	2021	2020	2019
Foreign revenue (in US \$1,000)	\$ 6,596	\$ 25,892	\$ 48,619
Percent of revenue from foreign countries	1%	4%	7%

The international dredging market is highly competitive, and competition in the international market is dominated by four large European dredging companies, all of which operate larger equipment and fleets that are more modern and extensive than the Company's. In addition, there are several governmentally supported dredging companies that operate on a local or regional basis. Competing for international dredging projects requires a substantial investment of resources, skilled personnel and capital investment in equipment and technology, and may adversely affect our ability to deploy resources for domestic dredging projects.

International operations subject us to additional potential risks, including:

- uncertainties concerning import and export license requirements, tariffs and other trade barriers;
- political and economic instability and risks of terrorist activities;
- reduced demand as a result of fluctuations in the price of oil, the primary export in the Middle East;
- difficulties in enforcing contractual rights and agreements through certain foreign legal systems;
- requirements of, and changes in, foreign laws, policies and regulations;
- local licensing, permitting and royalty issues, particularly with respect to our overseas operations in Bahrain and the Middle East;
- difficulties in staffing and managing international operations without additional expense;

- taxation issues;
- greater difficulty in accounts receivable collection and longer collection periods;
- compliance with the U.S. Foreign Corrupt Practices Act and international anticorruption laws;
- currency fluctuations;
- logistical and communication challenges; and
- inability to effectively insure against political, cultural and economic uncertainties, including acts of terrorism, civil unrest, war or other armed conflict.

In addition, our international operations are subject to U.S. and other laws and regulations regarding operations in foreign jurisdictions. These numerous and sometimes conflicting laws and regulations include anti-boycott laws, anti-competition laws, anti-corruption laws, tax laws, immigration laws, privacy laws and accounting requirements. There is a risk that some provisions may be breached, for example through inadvertence or mistake, fraudulent or negligent behavior of individual employees or of agents, or failure to comply with certain formal documentation requirements or otherwise. Violations of these laws and regulations could result in fines and penalties, criminal sanctions against us, our officers, or our employees, prohibitions on the conduct of our business and on our ability to operate in one or more countries, which could have a material adverse effect on our business, results of operations or financial condition. In addition, military action, terrorist activities or continued unrest in the Middle East could affect the safety of our personnel in the region and significantly increase the costs of, or disrupt our operations in, the region and could have a material adverse effect on our business, operating results, cash flows or financial condition.

***Regional instability in the Middle East may adversely affect business conditions and may disrupt our operations.***

Saudi Arabia, Bahrain and other Middle East countries have experienced political turbulence in the recent past. Political uprisings and conflicts, including armed hostilities and civil unrest, may affect the political stability of the region. Tensions in the region between the U.S. and Iran have escalated, resulting in increased military and militia activity in Iraq and other Middle East countries. In addition, there has been a decline in the relationships between and amongst certain governments in the Middle East, such as continued conflicts between Saudi Arabia and Iran.

Deterioration in the political, economic, and social conditions or other relevant policies of the government, such as changes in laws or regulations, export restrictions, expropriation of our assets or resource nationalization, could materially and adversely affect our business, access to markets, financial condition, and results of operations. Similar civil unrest and political turbulence has occurred in other countries in the region.

In addition, such events may affect plans for infrastructure investment. If the government changes or significant restrictions are established, our dredging operations in the Middle East, including the value of our assets related to such operations, may be adversely affected.

***Environmental regulations could force us to incur capital and operational costs.***

Our industries, and more specifically, our operations, facilities and vessels and equipment, are subject to various environmental laws and regulations relating to, among other things: dredging operations; the disposal of dredged material; protection of wetlands; storm water and waste water discharges; transportation and disposal of hazardous wastes and other regulated materials; air emissions; and disposal or remediation of contaminated soil, sediments, surface water and groundwater. We are also subject to laws designed to protect certain marine or land species and habitats. Compliance with these statutes and regulations can delay permitting and/or performance of particular projects and increase related project costs. These delays and increased costs could have a material adverse effect on our business, results of operations, cash flows or financial condition. Non-compliance can also result in fines, penalties and claims by third parties seeking damages for alleged personal injury, as well as damages to property and natural resources and suspension or debarment from future government contracting.

Certain environmental laws such as the U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Oil Pollution Act of 1990 impose strict and, under some circumstances, joint and several, liability on owners and lessees of land and facilities as well as owners and operators of vessels. Such obligations may include investigation and remediation of releases and discharges of regulated materials, and also impose liability for related damages to natural resources. Our past and ongoing operations involve the use, and from time to time the release or discharge, of regulated materials which could result in liability under these and other environmental laws. We have remediated known releases and discharges as deemed necessary, but there can be no guarantee that additional costs will not be incurred if, for example, third party claims arise or new conditions are discovered.

Our projects may involve excavation, remediation, demolition, transportation, management and disposal of hazardous waste and other regulated materials. Various laws strictly regulate the removal, treatment and transportation of hazardous waste and other regulated materials and impose liability for human health effects and environmental contamination caused by these materials. Services rendered in connection with hazardous substance and material removal and site development may involve professional judgments by

licensed experts about the nature of soil conditions and other physical conditions, including the extent to which hazardous substances and materials are present, and about the probable effect of procedures to mitigate problems or otherwise affect those conditions. If the judgments and the recommendations based upon those judgments are incorrect, we may be liable for resulting damages, which may be material. The failure of certain contractual protections to protect us from incurring such liability, such as staying out of the ownership chain for hazardous waste and other regulated materials and securing indemnification obligations from our customers or subcontractors, could have a material adverse effect on our business, results of operations, revenues or profits.

Environmental requirements have generally become more stringent over time, for example in the areas of air emissions controls for vessels and ballast treatment and handling. New laws or stricter enforcement of existing laws or, the discovery of currently unknown conditions or accidental discharges of regulated materials in the future could cause us to incur additional costs for environmental matters which might be significant.

***We may be affected by market or regulatory responses to climate change.***

Increased concern about the potential impact of greenhouse gases (“GHG”), such as carbon dioxide resulting from combustion of fossil fuels, on climate change has resulted in efforts to regulate their emission. Legislation, international protocols, regulation or other restrictions on GHG emissions could also affect our customers. Such legislation or restrictions could increase the costs of projects for our customers or, in some cases, prevent a project from going forward, thereby potentially reducing the need for our services which could in turn have a material adverse effect on our operations and financial condition. Additionally, in our normal course of operations, we use a significant amount of fossil fuels. The costs of controlling our GHG emissions or obtaining required emissions allowances in response to any regulatory change in our industry could increase materially.

***Penalties for late completion of contracts could reduce our profits.***

In many instances, including in our fixed-price contracts, we guarantee that we will complete a project by a scheduled date. If we subsequently fail to complete the project as scheduled, we may be liable for any customer losses resulting from such delay, generally in the form of contractually agreed-upon liquidated damages. In addition, failure to maintain a required schedule could cause us to default on our government contracts, giving rise to a variety of potential damages. To the extent that these events occur, the total costs of the project could exceed our original estimates, and we could experience reduced profits or, in some cases, a loss for that project.

***Force majeure events could negatively impact our business, operations, revenues, cash flows and profits.***

Force majeure or extraordinary events beyond the control of the contracting parties, such as natural and man-made disasters, as well as terrorist actions, could negatively impact the economies in which we operate. We typically negotiate contract language where we are allowed certain relief from force majeure events in private client contracts and review and attempt to mitigate force majeure events in both public and private client contracts. We remain obligated to perform our services after most extraordinary events subject to relief that may be available pursuant to a force majeure clause.

If a contract contains a force majeure provision, we may be able to obtain an extension of time to complete our obligations under such contract, but we will still be subject to our other contractual obligations in the event of such an extraordinary event. Because we cannot predict the length, severity or location of any potential force majeure event, it is not possible to determine the specific effects any such event may have on us. Depending on the specific circumstances of any particular force majeure event, or if we are unable to react quickly to such an event, our operations may be affected significantly, our productivity may be affected, our ability to complete projects in accordance with our contractual obligations may be affected, our payments from customers may be delayed and we may incur increased labor and materials costs, which could have a negative impact on our financial condition, relationships with customers or suppliers, and our reputation.

***The amount of our estimated backlog may change and may not be indicative of future revenues.***

Our contract backlog represents our estimate of the revenues that we will realize under the portion of the contracts remaining to be performed. These estimates are based primarily upon the time and costs required to mobilize the necessary assets to and from the project site, the amount and type of material to be dredged and the expected production capabilities of the equipment performing the work. However, these estimates are necessarily subject to variances based upon actual circumstances. From time to time, changes in project scope may occur with respect to contracts reflected in our backlog and could reduce the dollar amount of our backlog and the timing of the revenue and profits that we actually earn. Projects may remain in our backlog for an extended period of time because of the nature of the project and the timing of the particular services or equipment required by the project.

Because of these factors, as well as factors affecting the time required to complete each job, backlog is not necessarily indicative of future revenues or profitability. In addition, a significant amount of our backlog (62% as of December 31, 2021) relates to federal

government contracts, which can be canceled at any time without penalty to the government, subject, in most cases, to our contractual right to recover our actual committed costs and profit on work performed up to the date of cancellation.

Below is our backlog from federal government contracts as of December 31, 2021, 2020, and 2019 and the percentage of those contracts to total backlog as of the same date.

	Year Ended December 31,		
	2021	2020	2019
Federal government backlog (in US \$1,000)	\$ 341,768	\$ 390,345	\$ 486,612
Percentage of backlog from federal government	62%	70%	83%

At times we may have backlog with foreign governments that use local laws and regulations to change terms of a contract in backlog or to limit our ability to receive payment on a timely basis. Other contracts in backlog are with state and local municipalities or private companies that may have funding constraints or impose restrictions on timing. The termination, modification or suspension of projects currently in backlog could have a material adverse effect on our business, operating results, cash flows or financial condition.

***Loss of a single customer contract could significantly decrease revenue.***

Prospective customers may be incentivized to use another dredging company other than the Company. The Company could lose future contracts for work to competitors or could be forced to accept lower margins on contracts. Lower utilization, workforce reductions or asset relocations could have a material adverse effect on our business, operating results, cash flows or financial condition.

While the Company does not currently have significant operations or equipment in the Middle East, we may seek contracts there in the future. Certain factors have occurred suggesting that future revenues from projects with governments in the Middle East could decrease. Historically lower oil prices and the contraction in Middle East commercial and real estate development have slowed the rate of the region's infrastructure development. If the diplomatic relationship of the United States or our commercial relationship with governments in the Middle East is significantly negatively impacted or terminated, or we encounter significant difficulties in obtaining licensing or permits to do business in these countries, the Company's international revenues would be materially and adversely impacted. If the government of Bahrain or Saudi Arabia further curtails its infrastructure investment or diversifies its use of dredging vendors, our revenue from these customers could decline further.

***Inability to obtain secure financing or financing on favorable terms for our new vessels.***

We have previously disclosed our plans to build new vessels which requires significant capital expenditures. Unforeseen issues could arise in our ability to obtain secure financing or to obtain secure financing on terms favorable to us for building such vessels. This includes our new offshore wind vessel and other potential future vessels. The inability to obtain favorable financing may also impact our ability to bring the new vessels into service within the timeline anticipated by the Company, which may have an adverse effect on our business, financial position and/or results of operations.

***Inability to secure contracts to utilize new offshore wind vessel.***

We have previously disclosed the build of our new offshore wind vessel that is in progress. Our ability to obtain customers and/or contracts on terms favorable to the Company to utilize this new vessel for subsea rock installation for wind turbines could be impacted by unforeseen market conditions. As the costs to build this new vessel have already been incurred, the lack of a secure customer base and favorable secure contracts could have a material adverse effect on the Company's business, financial position and results of operations.

***Unforeseen delays and cost overruns could delay or halt plans to build new vessels and, as a result, negatively impact our business strategy.***

We have previously disclosed our plans to build new vessels. Unknown mechanical or engineering issues involving new vessels could adversely affect the Company's business, operating results, cash flows or financial condition. Our future revenues and profitability will also be impacted to some extent by our ability to secure financing for new vessels and bring them into service within the timeline anticipated by the Company. The Company contracts with shipyards to build new vessels and currently has vessels under construction. Construction projects are subject to risks of delay and cost overruns, resulting from shortages of equipment, materials and skilled labor; lack of shipyard availability; unforeseen design and engineering problems; work stoppages; weather interference; unanticipated cost increases; unscheduled delays in the delivery of material and equipment; and financial and other difficulties at

shipyards including labor disputes, shipyard insolvency and inability to obtain necessary certifications and approvals. A significant delay in the construction of new vessels or a shipyard's inability to perform under the construction contract could negatively impact the Company's ability to fulfill contract commitments and to realize timely revenues with respect to vessels under construction. Significant cost overruns or delays for vessels under construction could also adversely affect the Company's business, operating results, cash flows or financial condition. Changes in governmental regulations, safety or other equipment standards, as well as compliance with standards imposed by maritime self-regulatory organizations and customer requirements or competition, could also substantially increase the cost of such construction beyond what we currently expect such costs to be.

We have previously disclosed our plans to expand into the offshore wind market. Unknown changes to environmental needs and regulations and changes in the policies of the U.S. Presidential Administration could delay or halt plans to expand our new offshore wind projects, which would adversely impact our business strategy and affect the Company's operating results, cash flows or financial condition. Our future revenues and profitability will also be impacted to some extent if we are unable to obtain favorable steel prices or unable to obtain secure financing for new offshore wind vessels and bring them into service within the timeline anticipated by the Company.

***Our business would be adversely affected if we failed to comply with Jones Act provisions on coastwise trade, or if those provisions were modified or repealed.***

We are subject to the Jones Act and other federal laws that restrict dredging in U.S. waters and maritime transportation between points in the United States to vessels operating under the U.S. flag, built in the United States, at least 75% owned and operated by U.S. citizens and manned by U.S. crews. We are responsible for monitoring the ownership of our common stock to ensure compliance with these laws. If we do not comply with these restrictions, we would be prohibited from operating our vessels in the U.S. market, and under certain circumstances we would be deemed to have undertaken an unapproved foreign transfer, resulting in severe penalties, including permanent loss of U.S. dredging rights for our vessels, fines or forfeiture of the vessels.

In the past, interest groups have unsuccessfully lobbied Congress to modify or repeal the Jones Act to facilitate foreign flag competition for trades and cargoes currently reserved for U.S. flag vessels under the Jones Act. We believe that continued efforts may be made to modify or repeal the Jones Act or other federal laws currently benefiting U.S. flag vessels. If these efforts are ever successful, it could result in significantly increased competition and have a material adverse effect on our business, results of operations, cash flows or financial condition.

***Our operating costs depend significantly on the price of petroleum-based products, and price increases could adversely affect our profits.***

Fuel prices fluctuate based on market events outside of our control. We use diesel fuel and other petroleum-based products to operate our equipment used in our dredging contracts. Fluctuations in supplies relative to demand and other factors can cause unanticipated increases in their cost. Most of our contracts do not allow us to adjust our pricing for higher fuel costs during a contract term and we may be unable to secure price increases reflecting rising costs when renewing or bidding contracts. In addition, the International Maritime Organization issued regulations regarding use of low sulfur fuel, which has increased the demand for low sulfur fuel. We use low sulfur fuel in many of our domestic operations, and future increases in the costs of fuel and other petroleum-based products used in our business, particularly if a bid has been submitted for a contract and the costs of those products have been estimated at amounts less than the actual costs thereof, could result in a lower profit, or even a loss, on one or more contracts.

***Our investing and operating costs depend significantly on the prices of new build materials, and price increases due to high nationwide inflation could adversely affect our profits.***

The prices of steel and other materials to build and develop new vessels fluctuate based on market events outside of our control. Most of our contracts do not allow us to adjust our pricing for higher material costs during a contract term. When renewing contracts, we may be unable to secure price increases reflecting the rising costs of inflation. Such future increases in the costs of steel and other materials used to build new vessels, particularly if a bid or renewal has been submitted for a contract and the costs of the required products have been estimated at amounts less than the actual costs incurred, could result in a lower profit, or even a loss, on one or more contracts.

***An inability to obtain bonding or letters of credit would limit our ability to obtain future contracts, which could, along with any draws on existing arrangements, adversely affect our business, operating results, cash flows and financial condition.***

We are generally required to post bonds in connection with our domestic dredging contracts and bonds or letters of credit with our foreign dredging contracts to ensure job completion if we ever fail to finish a project. We have entered into bonding agreements with the sureties, or the “Sureties”, pursuant to which the Sureties issue bid bonds, performance bonds and payment bonds, and provide guarantees required by us in the day-to-day operations of our dredging business. The Company also has outstanding bonds with Travelers Casualty and Surety Company of America and Zurich. Historically, we have had a strong bonding capacity, but surety companies issue bonds on a project-by-project basis and can decline to issue bonds at any time or require the posting of collateral as a condition to issuing any bonds. With respect to our foreign dredging business, we generally obtain letters of credit under our Amended Credit Agreement. However, access to our senior credit facility under our Amended Credit Agreement may be limited by failure to meet certain levels of availability or other defined financial or other requirements. If we are unable to obtain bonds or letters of credit on terms reasonably acceptable to us, our ability to take on future work would be severely limited.

In connection with the sale of our historical demolition business, we were obligated to keep in place the surety bonds on pending demolition projects for the period required under the respective contract for a project. In 2017, we were notified by Zurich of an alleged default triggered on a historical demolition surety performance bond in the aggregate amount of approximately \$20 million for failure of the contractor to perform in accordance with the terms of a project. Zurich drew upon the letter of credit in the amount of \$20.9 million. In order to fund the draw on the letter of credit, we had to increase the borrowings on our revolving credit facility. As the outstanding letters of credit previously reduced our availability under the revolving credit facility, this draw down on our letter of credit did not impact our liquidity or capital availability. However, in the future, other defaults (or alleged defaults) triggered under any of our surety bonds could have a material adverse effect on our business, results of operations, cash flows or financial condition.

***Acquisitions involve integration, consolidation and strategic risks and may involve significant transaction expenses and unexpected liabilities, which could adversely affect our business and results of operations.***

We may seek business acquisition activities as a means of broadening our offerings and capturing additional market opportunities by our business units. We may be exposed to certain additional risks resulting from these activities. Acquisitions may expose us to operational challenges and risks, including:

- the effects of valuation methodologies which may not accurately capture the value proposition;
- the failure to integrate acquired businesses into our operations, financial reporting and controls with the efficiency and effectiveness initially expected resulting in a potentially significant detriment to our financial results and our operations as a whole;
- the management of the growth resulting from acquisition activities;
- the inability to capitalize on expected synergies;
- the assumption of liabilities of an acquired business (for example, litigation, tax liabilities, environmental liabilities), including liabilities that were contingent or unknown at the time of the acquisition and that pose future risks to our working capital needs, cash flows and the profitability of related operations;
- the assumption of unprofitable projects that pose future risks to our working capital needs, cash flows and the profitability of related operations;
- the risks associated with entering new markets;
- diversion of management’s attention from our existing business;
- failure to retain key personnel, customers or contracts of any acquired business;
- potential adverse effects on our ability to comply with covenants in our existing debt financing;
- potential impairment of acquired intangible assets; and
- additional debt financing, which may not be available on attractive terms.

We may not have the appropriate management, financial or other resources needed to integrate any businesses that we acquire. Any future acquisitions may result in significant transaction expenses and unexpected liabilities.

***Divestitures and discontinued operations could negatively impact our business, and any retained liabilities could adversely affect our financial results.***

As part of our strategic process, we review our operations for assets and businesses which may no longer be aligned with our strategic initiatives and long-term objectives. For example, we have divested our historical environmental & infrastructure business and historical demolition business. We continue to review our assets and strategy and may pursue additional divestitures. Divestitures pose risks and challenges that could negatively impact our business, including required separation or carve-out activities and costs, disputes with buyers or potential impairment charges. We may also dispose of a business at a price or on terms that are less than we had previously anticipated or fail to close a transaction at all. Dispositions may also involve continued financial involvement, as we may be required to retain responsibility for, or agree to indemnify buyers against contingent liabilities related to businesses sold, such as lawsuits, surety obligations, tax liabilities, or environmental matters. It may also be difficult to determine whether a claim from a third party stemmed from actions taken by us or by another party and we may expend substantial resources trying to determine which party has responsibility for the claim. Under these types of arrangements, performance by the divested businesses or other conditions outside of our control could affect future financial results and such claims or conditions may divert management attention from our continuing business.

During the second quarter of 2014, the Company completed the sale of its historical demolition business. In connection with the sale, the Company retained responsibility for various pre-closing liabilities and obligations and may incur costs and expenses related to these items and asset recoveries. It is possible that claims, which could be material, could be made against the Company by virtue of the agreement pursuant to which the Company's historical demolition business was sold. In connection with the sale of our historical demolition business, we were obligated to keep in place the surety bonds on pending demolition projects for the period required under the respective contract for a project. As noted above, if there should be a default (or alleged default) triggered under any of the surety bonds for the historical demolition business, it could have a material adverse effect on our ability to obtain bonds and on our business, results of operations, cash flows or financial condition.

During the second quarter of 2019, the Company completed the sale of the historical environmental & infrastructure business. The Company retained responsibility for pre-closing liabilities and indemnification for breaches of our representations and warranties in the sale agreement. If the buyer made a claim against any of our indemnifications or if any payments became due in connection with any pre-closing liability, they could be material to results of operations, cash flows or financial condition.

If we do not realize the expected benefits or synergies of any divestiture transaction or if we underestimated the valuation of the charge related to placing an asset held for sale in discontinued operations, our consolidated financial position, results of operations and cash flows could be negatively impacted. Any divestiture may result in a dilutive impact to our future earnings if we are unable to offset the dilutive impact from the loss of revenue associated with the divestiture, as well as significant write-offs, including those related to goodwill and other intangible assets, which could have a material adverse effect on our results of operations and financial condition.

***We could face liabilities and/or damage to our reputation as a result of certain legal and regulatory proceedings, including a pending legal proceeding in Louisiana.***

We operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. From time to time, we are subject to legal and regulatory proceedings in the ordinary course of our business. These include proceedings relating to aspects of our businesses that are specific to us and proceedings that are typical in the businesses in which we operate.

In particular, on April 22, 2021, the U.S. Attorney's Office for the Eastern District of Louisiana filed a bill of information against the Company charging the Company with a negligent discharge violation of the Clean Water Act arising from a September 2016 oil spill. The spill occurred during the Company's Cheniere Ronquille project and resulted in the discharge of around one hundred sixty barrels of crude oil in Bay Long, Louisiana. The Company has cooperated with the U.S. Attorney's Office and other relevant agencies in their investigation of the oil spill and on June 15, 2021, the Company pleaded guilty to the misdemeanor violation alleged in the bill of information and agreed to pay a fine of \$1 million. In the first quarter of 2022, the Company entered into a settlement of a civil suit arising from the same matter. The Company remains subject to potential liability for restitution in connection with this criminal matter, and has deposited the potential liability for the criminal matter of \$2 million into the registry of the court. That amount is presented as restricted cash in other noncurrent assets. As a result of the pending conviction, the government will likely initiate statutory debarment proceedings against us, which might prohibit us from bidding for, entering into or completing certain government projects. Although the Company does not know whether debarment proceedings will result in prohibitions, or the impact of any such resulting prohibitions, the Company does not expect any such proceedings or prohibitions to cause a material disruption to its business, financial condition or results of operations.

We are also currently a defendant in a number of other litigation matters, including those described in Item 3. "Legal Proceedings" of this Annual Report on Form 10-K. In certain of these matters, the plaintiffs are seeking large and/or indeterminate amounts of damages. These matters are also subject to many uncertainties, and it is possible that some of these matters could



ultimately be decided, resolved or settled adversely to the Company. An adverse outcome in a legal or regulatory matter could, depending on the facts, have an adverse effect on our business, results of operations, cash flows or financial condition.

Furthermore, whether the ultimate outcomes are favorable or unfavorable, these matters can also have significant adverse reputational impacts, including negative publicity and press speculation about us, whether valid or not, which may be damaging to our business, results of operations, cash flows or financial condition.

***Liabilities for the obligations of our joint ventures, partners and subcontractors could materially decrease our profitability and liquidity.***

Some of our projects are performed through joint ventures and similar arrangements with other parties. In addition to the usual liability of contractors for the completion of contracts and the warranty of our work, if work is performed through a joint venture or similar arrangement, we also have potential liability for the work performed by the joint venture or arrangement or a performance or payment default by another member of the joint venture or arrangement. In these projects, even if we satisfactorily complete our project responsibilities within budget, we may incur additional unforeseen costs due to the failure of the other party or parties to the arrangement to perform or complete work, fund expenditures, or make payments in accordance with contract specifications. In some joint ventures and similar arrangements, we may not be the controlling member. In these cases, we may have limited control over the actions of the joint venture. In addition, joint ventures or arrangements may not be subject to the same requirements regarding internal controls and internal control over financial reporting that we follow. To the extent the controlling member makes decisions that negatively impact the joint venture or arrangement or internal control problems arise within the joint venture or arrangement, it could have a material adverse impact on our business, results of operations, cash flows or financial condition.

Depending on the nature of work required to complete the project, we may choose to subcontract a portion of the project. In our industries, the prime contractor is often responsible for the performance of the entire contract, including subcontract work. Thus, we are subject to risks associated with the failure of one or more subcontractors to perform as anticipated. In addition, in some cases, we pay our subcontractors before our customers pay us for the related services. If we choose, or are required, to pay our subcontractors for work performed for customers who fail to pay, or delay paying us for the related work, we could experience a material decrease in profitability and liquidity.

***New tariffs have increased our costs and could adversely affect our business operations, revenues and profits.***

In recent years, the United States has imposed Section 232 tariffs and other import taxes on certain steel and aluminum products, such as imported dredge-related machinery and pipes. These tariffs and other import taxes have increased the prices of these inputs. Increased prices for imported steel and aluminum products have led domestic sellers to respond with market-based increases to prices for such inputs as well. We cannot be sure of the ultimate effect such tariffs or any additional import taxes will have on our operating profits. If we are not able to pass these price increases on to our customers or to secure adequate alternative sources for such inputs on a timely basis, the tariffs and other import taxes may have a material adverse effect on our business operations, revenues and profits.

***Our business could suffer in the event of a work stoppage by our unionized labor force.***

We are a party to numerous collective bargaining agreements in the U.S. that govern our industry's relationships with our unionized hourly workforce. Two unions represent approximately 74% of our hourly dredging employees—the IUOE Local 25 and the Seafarers International Union. The Company's master and ancillary contracts with IUOE Local 25 expire in September 2024. The Company's master contract with Seafarers International Union expires in February 2023. The inability to successfully renegotiate contracts with these unions as they expire, or any future strikes, employee slowdowns or similar actions by one or more unions could have a material adverse effect on our ability to operate our business.

***Liabilities imposed by federal laws for job-related claims by seagoing employees could increase our costs and reduce our profitability.***

Substantially all of our maritime employees are covered by provisions of the Jones Act, the U.S. Longshore and Harbor Workers' Compensation Act, the Seaman's Wage Act and general maritime law. These laws typically operate to make liability limits established by state workers' compensation laws inapplicable to these employees and to permit these employees and their representatives to pursue actions against employers for job-related injuries in federal or state courts. Because we are not generally protected by the limits imposed by state workers' compensation statutes with respect to our seagoing employees, we have greater exposure for claims made by these employees as compared to industries whose employees are not covered by these provisions. Successful claims could materially increase our costs and reduce our profitability.

***The significant operating risks and hazards inherent in the operation of our business could result in personal or property damage, which could result in losses or liabilities to us.***

The dredging business is generally subject to a number of risks and hazards, including environmental hazards, industrial accidents, encountering unusual or unexpected geological formations, cave-ins below water levels, collisions, disruption of transportation services, flooding and unexploded ordnance. These risks could result in personal injury, damage to, or destruction of, dredges, barges transportation vessels, other maritime vessels, other structures, buildings or equipment, environmental damage, performance delays, monetary losses or legal liability to third parties. We may also be exposed to disruption of our operations, early termination of projects, unanticipated recovery costs and loss of use of our equipment that may materially adversely affect our business, results of operations, cash flows or financial condition.

Our safety record is an important consideration for our customers. Some of our customers require that we maintain certain specified safety record guidelines to be eligible to bid for contracts with these customers. Furthermore, contract terms may provide for automatic termination or forfeiture of some of our contract revenue in the event that our safety record fails to adhere to agreed-upon guidelines during performance of the contract. As a result, if serious accidents or fatalities occur or our safety record were to deteriorate, we may be ineligible to bid on certain work, and existing contracts could be terminated or less profitable than expected. Adverse experience with hazards and claims could have a negative effect on our reputation with our existing or potential new customers and our prospects for future work.

***We may be unable to identify and contract with qualified MBE or DBE contractors to perform as subcontractors, which could materially and adversely impact our financial position, results of operations, cash flows and liquidity.***

Certain of our government agency projects contain goals for minimum minority business enterprise (“MBE”) and/or disadvantaged business enterprise (“DBE”) participation clauses. If we subsequently fail to reach our goals for the minimum MBE and/or DBE participation, we may be held responsible for breach of contract, which may include restrictions on our ability to bid on future projects as well as monetary damages. To the extent we are responsible for monetary damages, the total costs of the project could exceed our original estimates, we could experience reduced profits or a loss for that project and there could be a material adverse impact to our financial position, results of operations, cash flows and liquidity.

### **Risks Related to our Financing**

***We have substantial indebtedness, which makes us more vulnerable to adverse economic and competitive conditions.***

We currently have a substantial amount of indebtedness. As of December 31, 2021, we had indebtedness of \$325.0 million, consisting of our senior subordinated notes. Currently, we have no borrowings on our revolving credit facility and approximately \$25.1 million of undrawn letters of credit, leaving \$174.5 million of additional borrowing capacity under our revolving credit facility. These figures exclude contingent obligations, including \$1.2 billion of performance bonds outstanding under the Company’s agreements with the Sureties and other bonding agreements. Our level of indebtedness could:

- require us to dedicate a portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow to fund working capital and capital expenditures, pay dividends and other general corporate purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and our industries;
- affect our competitiveness compared to our less leveraged competitors;
- increase our exposure to both general and industry-specific adverse economic conditions; and
- limit, among other things, our ability to borrow additional funds.

We and our subsidiaries also may be able to incur substantial additional indebtedness in the future. The terms of our revolving credit facility and the indenture under which our senior subordinated notes are issued limit, but do not prohibit, us or our subsidiaries from incurring additional indebtedness. If new indebtedness is added to our current debt levels, the related risks that we and our subsidiaries now face could intensify.

***Covenants in our financing arrangements limit, and other future financing agreements may limit, our ability to operate our business.***

The credit agreement governing our senior revolving credit facility and the indenture governing our senior notes contain, and any of our other future financing agreements may contain covenants imposing operating and financial restrictions on our business.

For example, the credit agreement governing our senior revolving credit facility requires us to satisfy a fixed charge coverage ratio under certain circumstances. If we fail to satisfy such covenant, we would be in default and the lenders (through the

administrative agent or collateral agent, as applicable) could elect to declare all amounts outstanding to be immediately due and payable, enforce their interests in the collateral pledged and/or restrict our ability to make additional borrowings, as applicable. The covenants in the credit agreement governing our senior revolving credit facility and the indenture governing our senior notes, subject to specified exceptions and to varying degrees, restrict our ability to, among other things:

- incur additional indebtedness;
- create, incur, assume or permit to exist any liens;
- enter into sale and leaseback transactions;
- enter into operating leases;
- make investments, loans and advancements;
- merge, consolidate or reorganize with, or dispose of all or substantially all assets to, a third party;
- sell assets;
- make acquisitions;
- pay dividends;
- enter into transactions with affiliates;
- prepay or redeem other indebtedness; and
- issue certain types of capital stock.

These restrictions may interfere with our ability to obtain financings or to engage in other business activities, which could have a material adverse effect on our results of operations, cash flows or financial condition.

***Adverse capital and credit market conditions may affect our ability to access capital and meet liquidity needs.***

The domestic and worldwide capital and credit markets may experience significant volatility, disruptions and dislocations with respect to price and credit availability. Should we need additional funds or to refinance our existing indebtedness, we may not be able to obtain such additional funds or refinancing on acceptable terms, or at all.

We need liquidity to pay our operating expenses, interest on our debt and dividends on our capital stock. Without sufficient liquidity, we will be forced to curtail our operations, and our business will suffer. The principal sources of our liquidity are cash flow from operations and borrowings under our senior revolving credit facility. Earnings from our operations and our working capital requirements can vary significantly from period to period based primarily on the mix of our projects underway and the percentage of project work completed during the period. Capital expenditures may also vary significantly from period to period. While we manage cash requirements for working capital and capital expenditure needs, unpredictability in cash collections and payments has required us in the past and may in the future require us to borrow on our line of credit from time to time to meet the needs of our operations.

In the event these resources do not satisfy our liquidity needs, we may have to seek additional financing. The availability of additional financing will depend on a variety of factors such as market conditions, the general availability of credit, the volume of trading activities, our credit ratings and credit capacity, as well as the possibility that customers or lenders could develop a negative perception of our long- or short-term financial prospects if the level of our business activity decreased due to a market downturn. If internal sources of liquidity prove to be insufficient, we may not be able to successfully obtain additional financing on favorable terms, or at all.

***We may be unable to maintain or expand our credit capacity, which would adversely affect our operations and business.***

We use credit facilities to support our working capital and acquisition needs. If we exhaust our borrowing capacity under our Amended Credit Agreement, and cash flows from operations do not increase sufficiently, our ability to fund the working capital, capital expenditure and other needs of our existing operations could be constrained and our business and results of operations could be materially adversely affected. If we experience operational difficulties or our operating results do not improve, we may need to increase our available borrowing capacity or seek amendments to the terms of our Amended Credit Agreement. Our Amended Credit Agreement is scheduled to expire on May 3, 2024. We strive to enter into new arrangements on terms that are more favorable than the terms of the Amended Credit Agreement, but we cannot guarantee that we will be able to obtain financing on commercially reasonable terms or at all, or alternatively that we will be able to secure any additional capacity or amend our Amended Credit Agreement or do so on terms that are acceptable to us, in which case, our costs of borrowing could rise and our business and results of operations could be materially adversely affected.

***Regulatory requirements for derivative transactions could adversely impact our ability to hedge interest rate, currency or commodity risks.***

We may enter into interest rate swap agreements to manage the interest rate paid with respect to our fixed rate indebtedness, foreign exchange forward contracts to hedge currency risk and heating oil commodity swap contracts to hedge the risk that fluctuations in diesel fuel prices will have an adverse impact on cash flows associated with our domestic dredging contracts. The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) and regulations adopted by a number of U.S. federal regulatory agencies created a comprehensive statutory and regulatory framework for derivative transactions, including foreign currency and other over-the-counter derivative hedging transactions. While a number of provisions of Dodd-Frank have been implemented, certain key provisions have not yet been implemented or remain subject to uncertainty. Furthermore, certain provisions of Dodd-Frank may be modified or repealed in the future. Any substantial change in the financial regulatory environment could create additional new compliance costs for us or cause us to alter the manner in which we manage risk, which could have a materially adverse effect on our business. The rules adopted or to be adopted under Dodd-Frank may significantly reduce our ability to execute strategic hedges to manage our interest expense, reduce our fuel commodity uncertainty and hedge our currency risk thus protecting our cash flows. In addition, the banks and other derivatives dealers who are our contractual counterparties are required to comply with extensive regulation under Dodd-Frank. The cost of our counterparties’ compliance will likely be passed on to customers such as ourselves, thus potentially decreasing the benefits to us of hedging transactions and potentially reducing our profitability.

***We may be subject to foreign exchange risks, which could result in large cash losses.***

We are exposed to market risk associated with changes in foreign currency exchange rates. The primary foreign currencies to which the Company has exposure are the Euro, Korean Won and Bahraini dinar. We have unhedged foreign currency exposure related to the new inclined fall-pipe vessel for subsea rock installation build, in particular, as it relates to the procurement of steel for this build. Our international contracts may be denominated in foreign currencies, which will result in additional risk of fluctuating currency values and exchange rates, hard currency shortages and controls on currency exchange. Changes in the value of foreign currencies could increase our U.S. dollar costs for, or reduce our U.S. dollar revenues from, our foreign operations. Any increased costs or reduced revenues as a result of foreign currency fluctuations could affect our profits.

***Our investments in, and extensions of payment terms for, privately financed projects could result in significant losses.***

We have participated and may continue to participate in privately financed projects that enable state and local governments and other customers to finance dredging, such as dredging of local navigable waterways and lakes, coastal protection and infrastructure projects. These projects typically include the facilitation of non-recourse financing and the provision of dredging, environmental, infrastructure, and related services. We may incur contractually reimbursable costs and may accept extended payment terms, extend debt financing and/or make an equity investment in an entity prior to, in connection with, or as part of project financing, and in some cases we may be the sole or primary source of the project financing. Project financing may also involve the use of real estate, environmental, wetlands or similar credits. If a project is unable to obtain other financing on terms acceptable to it in amounts sufficient to repay or redeem our investments, we could incur losses on our investments and any related contractual receivables. After completion of these projects, the return on our equity investments can be dependent on the operational success of the project and market factors or sale of the aforementioned credits, which may not be under our control. As a result, we could sustain a loss of part or all of our equity investments in such projects or have to recognize the value of the credits at a lower amount than expected in the contract bid.

## **Risks Related to our Stock**

***Our common stock is subject to restrictions on foreign ownership.***

We are subject to government regulations pursuant to the Dredging Act, the Jones Act, the Shipping Act and the vessel documentation laws set forth in Chapter 121 of Title 46 of the United States Code. These statutes require vessels engaged in the transport of merchandise or passengers or dredging in the navigable waters of the U.S. to be owned and controlled by U.S. citizens. The U.S. citizenship ownership and control standards require the vessel-owning entity to be at least 75% U.S.-citizen owned. Our certificate of incorporation contains provisions limiting non-citizenship ownership of our capital stock. If our board of directors determines that persons who are not citizens of the U.S. own more than 22.5% of our outstanding capital stock or more than 22.5% of our voting power, we may redeem such stock. The required redemption price could be materially different from the current price of our common stock or the price at which the non-citizen acquired the common stock. If a non-citizen purchases our common stock, there can be no assurance that they will not be required to divest the shares and such divestiture could result in a material loss. Such restrictions and redemption rights may make our equity securities less attractive to potential investors, which may result in our common stock having a lower market price than it might have in the absence of such restrictions and redemption rights.

***Delaware law and our charter documents may impede or discourage a takeover that our stockholders may consider favorable.***

The provisions of our certificate of incorporation and bylaws may deter, delay or prevent a third-party from acquiring us. These provisions include:

- limitations on the ability of stockholders to amend our charter documents, including stockholder supermajority voting requirements;
- the inability of stockholders to call special meetings;
- a classified board of directors with staggered three-year terms;
- advance notice requirements for nominations for election to the board of directors and for stockholder proposals; and
- the authority of our board of directors to issue, without stockholder approval, up to 1,000,000 shares of preferred stock with such terms as the board of directors may determine and to issue additional shares of our common stock.

We are also subject to the protections of Section 203 of the Delaware General Corporation Law, which prevents us from engaging in a business combination with a person who acquires at least 15% of our common stock for a period of three years from the date such person acquired such common stock, unless board or stockholder approval was obtained.

These provisions could have the effect of delaying, deferring or preventing a change in control of our company, discourage others from making tender offers for our shares, lower the market price of our stock or impede the ability of our stockholders to change our management, even if such changes would be beneficial to our stockholders.

***Our stockholders may not receive dividends because of restrictions in our debt agreements or Delaware law.***

Our ability to pay dividends is restricted by the agreements governing our debt, including our Amended Credit Agreement, our bonding agreements and the indenture governing our senior unsecured notes. In addition, under Delaware law, our board of directors may not authorize payment of a dividend unless it is either paid out of our surplus, as calculated in accordance with the Delaware General Corporation Law, or, if we do not have a surplus, it is paid out of our net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. To the extent we do not have adequate surplus or net profits, we will be prohibited from paying dividends.

***Significant fluctuations in the market price of our common stock may affect the ability of holders to resell our common stock at prices that they find attractive.***

The price of our common stock on the NASDAQ Global Market constantly changes. We expect that the market price of our common stock will continue to fluctuate. The market price of our common stock may fluctuate as a result of a variety of factors, many of which are beyond our control. These factors include:

- changes in market conditions;
- quarterly variations in our operating results;
- operating results that vary from the expectations of management, securities analysts and investors;
- changes in expectations as to our future financial performance;
- announcements of strategic developments, significant contracts, acquisitions and other material events by us or our competitors;
- the operating and securities price performance of other companies that investors believe are comparable to us;
- future sales of our equity or equity-related securities;
- changes in the economy and the financial markets;
- departures of key personnel;
- changes in governmental regulations; and
- geopolitical conditions, such as acts or threats of terrorism, political instability, civil unrest or military conflicts.

In addition, in recent years, global stock markets have experienced extreme price and volume fluctuations. This volatility has had a significant effect on the market price of securities issued by many companies for reasons often unrelated to their operating performance. These broad market fluctuations may adversely affect the market price of our common stock, regardless of our operating results.

Volatility in the financial markets could cause a decline in our stock price, which could trigger an impairment of the goodwill of individual reporting units that could be material to our consolidated financial statements. A significant drop in the price of our stock could also expose us to the risk of securities class action lawsuits, which could result in substantial costs and divert management's attention and resources, which could adversely affect our business. Additionally, volatility or a lack of positive performance in our stock price may adversely affect our ability to retain key employees, many of whom are awarded equity securities, the value of which is dependent on the performance of our stock price.

### **General Risk Factors**

***Our methods of accounting for recognizing revenue involve significant estimates and could result in a change in previously recorded revenue and profit.***

We recognize revenue on our projects using generally accepted accounting principles in the United States ("GAAP") including guidance from Revenue from Contracts with Customers, as amended (commonly referred to as ASC 606) subsequent to year-end December 31, 2017. The majority of our work is performed on a fixed-price basis. Contract revenue is recorded over time based on estimates which we develop from information known to us at the time of recording, but which may change. The cumulative impact of revisions to estimates is reflected in the period in which these changes are experienced or become known. Given the risks associated with the variables in these types of estimates, it is possible for actual costs to vary from estimates previously made, which may result in reductions or reversals of previously recorded net revenues and profits.

***Our current insurance coverage may not be adequate, and we may not be able to obtain insurance at acceptable rates, or at all.***

We maintain various insurance policies, including hull and machinery, pollution liability, general liability and personal injury. We partially self-insure risks covered by our policies. While we reserve for such self-insured exposures when appropriate for accounting purposes, we are not required to, and do not, specifically set aside funds for the self-insured portion of claims. We may not have insurance coverage or sufficient insurance coverage for all exposures potentially arising from a project. Furthermore, in situations where there is insurance coverage, if multiple policies are involved, we may be subject to a number of self-retention or deductible amounts which in the aggregate could have an adverse effect on our business, results of operations, cash flows or financial condition. At any given time, we are subject to Jones Act personal injury claims and claims from general contractors and other third parties for personal injuries. Our insurance policies may not be adequate to protect us from liabilities that we incur in our business. We may not be able to obtain similar levels of insurance on reasonable terms, or at all. Our inability to obtain such insurance coverage at acceptable rates or at all could have a material adverse effect on our business, results of operations, cash flows or financial condition.

***If we are unable to find, attract and retain skilled labor and key personnel, including governance personnel, our business, results of operations, cash flows or financial condition could be materially and adversely affected.***

Our ability to attract and retain reliable, qualified personnel is a significant factor that enables us to successfully bid for and profitably complete our work. This includes members of our board of directors, management, project managers, estimators, skilled engineers, supervisors, foremen, equipment operators and laborers. The loss of the services of any of our management could have a material adverse effect on us. If we do not succeed in retaining our current key employees and attracting, developing and retaining new highly-skilled employees, our reputation may be harmed and our operations and future earnings may be negatively impacted. We may not be able to maintain an adequate skilled labor force necessary to operate efficiently and to support our growth strategy. We have from time to time experienced, and may in the future experience, shortages of certain types of qualified equipment operating personnel. We have experienced, and may continue to experience, some difficulty finding skilled labor in the current labor shortage market. The supply of experienced engineers, project managers, field supervisors and other skilled workers may not be sufficient to meet current or expected demand. If we are unable to hire employees with the requisite skills, we may also be forced to incur significant training expenses. The occurrence of any of the foregoing could have an adverse effect on our business, results of operations, cash flows or financial condition.

In addition, any abrupt changes in our management or board of directors may lead to concerns regarding the direction or stability of our business, which may be exploited by our competitors, result in the loss of business opportunities, cause concern to our current or potential customers or suppliers, or make it more difficult to retain existing personnel or attract and retain new personnel. Changes in management or the board could be time-consuming, result in significant additional costs to us and could be disruptive of our operations and divert the time and attention of management and our employees away from our business operations and executing on our strategic plan. The unexpected loss of members of our board of directors or senior management team could be disruptive to our operations, jeopardize our ability to raise additional funding and have an adverse effect on our business. The failure of our directors or

any new members of our board of directors or management to perform effectively could have a significant negative impact on our business, financial condition and results of operations.

***Disruption, failure, data corruption, cyber-based attacks or security breaches of our IT systems could adversely affect our business and results of operations.***

We rely on information technology (“IT”) systems in order to achieve our business objectives, including to transmit and store electronic information, to capture knowledge of our business including vessel operation systems containing information about production, efficiency and vessel positioning, to conduct our accounting, financial and treasury activities, to store historical financial, project and proprietary information, to monitor our vessel maintenance and engine systems, and to communicate within the organization and with customers, suppliers, partners and other third parties. Our portfolio of hardware and software products, solutions and services and our enterprise IT systems may be vulnerable to damage or disruption caused by circumstances beyond our control such as catastrophic events, power outages, natural disasters and computer system or network failures. The Company’s IT systems may also be subject to cybersecurity attacks including malware, other computer viruses or malicious software, spoofing or phishing email attacks, attempts to gain unauthorized access to our data, the unauthorized release, corruption or loss of its data, loss or damage to its data delivery systems and other electronic security breaches. The failure or disruption of our IT systems to perform as anticipated for any reason could disrupt our business and result in decreased performance, significant remediation costs, transaction errors, loss of data, processing inefficiencies, downtime, failure to properly estimate the work or costs associated with projects, litigation and the loss of customers or suppliers. A significant disruption or failure could have a material adverse effect on our business, operating results, cash flows or financial condition.

***Impairments to our goodwill or other intangible assets could negatively affect our financial condition and results of operations.***

Under current accounting guidelines, we must assess, at least annually and potentially more frequently, whether the value of our goodwill and other intangible assets have been impaired. Any impairment of goodwill or other intangible assets as a result of such analysis would result in a non-cash charge against earnings, which charge could materially adversely affect our business, operating results or financial condition. We test goodwill annually for impairment in the third quarter of each year, or more frequently should circumstances dictate. A significant and sustained decline in our future cash flows, a significant adverse change in the economic environment, slower growth rates or our stock price falling below our net book value per share for a sustained period could result in the need to perform additional impairment analysis in future periods. If we were to conclude that a future write-down of goodwill or other intangible assets is necessary, then we would be required to record a non-cash charge against earnings, which, in turn, could have a material adverse effect on our business, results of operations or financial condition.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

The Company owns or leases the properties described below. The Company believes that its existing facilities are adequate for its operations.

The Company’s headquarters are located at 9811 Katy Freeway, Suite 1200, Houston, Texas 77024 with approximately 23,336 square feet of office space that it leases with a term expiring in 2030. As of December 31, 2021, the Company owns or leases the following additional facilities:

<b>Location</b>	<b>Type of Facility</b>	<b>Size</b>		<b>Leased or Owned</b>
Staten Island, NY	Yard	4.4	Acres	Owned
Morgan City, LA	Yard	6.4	Acres	Owned
Norfolk, VA	Yard	15.3	Acres	Owned
Norfolk, VA	Yard	16.2	Acres	Leased
Little Rock, AR	Yard	11.8	Acres	Leased
Cape Girardeau, MO	Office	726	Square feet	Owned
Cape Girardeau, MO	Storage	7,200	Square feet	Owned
Cape Girardeau, MO	Yard	18.4	Acres	Owned
Jacksonville, FL	Office	4,171	Square feet	Leased
Oakbrook Terrace, IL	Office	44,219	Square feet	Leased

**Item 3. Legal Proceedings**

For additional discussion of certain litigation involving the Company, see the disclosures under “Legal proceedings and other contingencies” included within Note 12, “Commitments and contingencies,” to the Company’s consolidated financial statements.

**Item 4. Mine Safety Disclosures**

Not applicable.

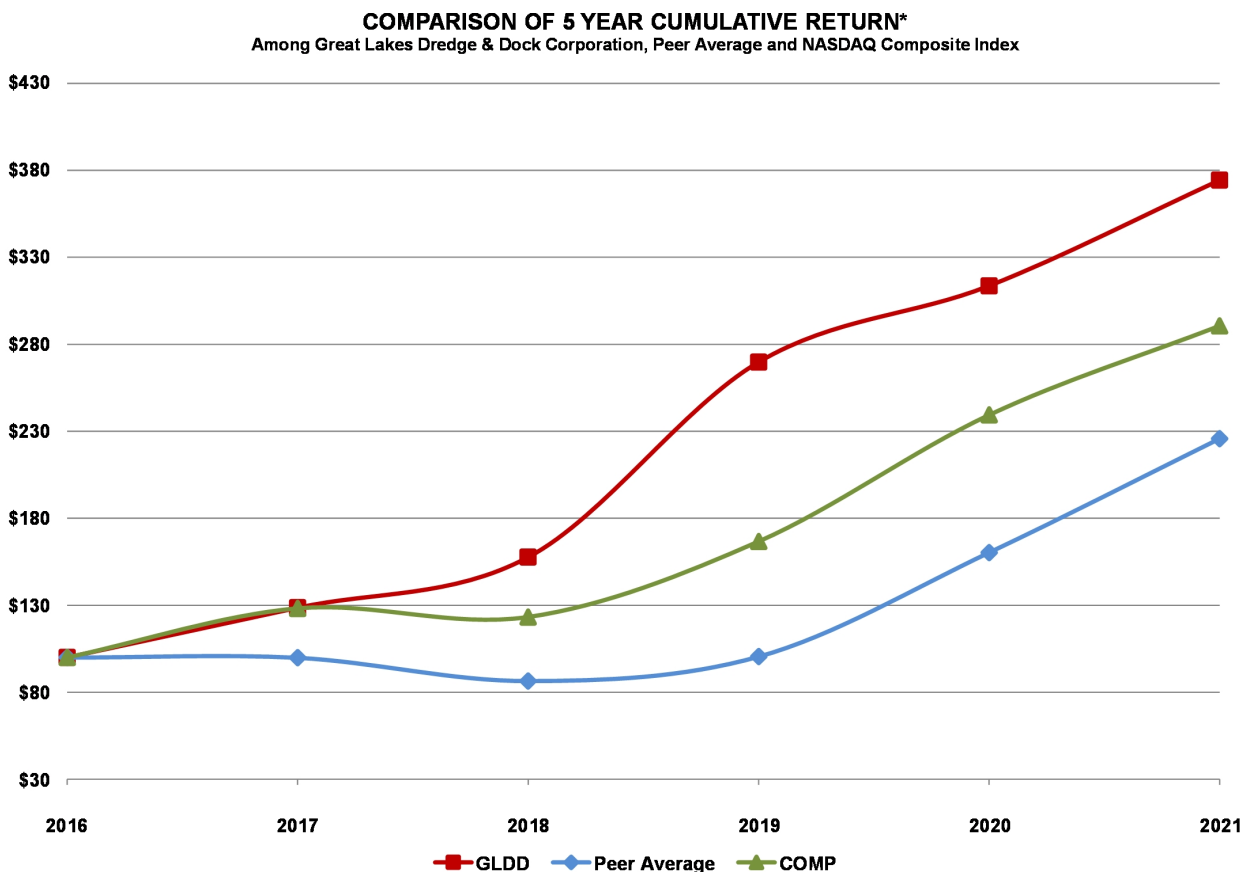


Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common stock is traded under the symbol “GLDD” on the NASDAQ Global Market.

The graph below shows the cumulative total return to stockholders of the Company’s common stock during a five year period ended December 31, 2021, the last trading day of our 2021 fiscal year, compared with the return on the NASDAQ Composite Index and a group of our peers which we use internally as a benchmark for our performance. The graph assumes initial investments of \$100 each on December 31, 2016, in GLDD stock (assuming reinvestment of all dividends paid during the period), the NASDAQ Composite Index and the peer group companies, collectively.



\* \$100 invested on December 31, 2016 in stock or index, including reinvestment of dividends. Fiscal year ended December 31,

	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
Great Lakes Dredge & Dock Corp	\$ 100.00	\$ 128.57	\$ 157.62	\$ 269.76	\$ 313.57	\$ 374.29
Peer Average (see below)	100.00	99.85	86.50	100.51	160.30	225.71
NASDAQ Composite Index	100.00	128.24	123.26	166.68	239.42	290.63

The peer group in the graph above is comprised of the following member companies:

<b>Company</b>	<b>Ticker</b>
Aegion Corporation (prior to acquisition by New Mountain Capital, LLC on May 17, 2021)	AEGN
Ameresco	AMRC
Argan, Inc.	AGX
Badger Daylighting Ltd	BADFF
Construction Partners Inc	ROAD
Hill International	HIL
IES Holdings	IESC
Infrastructure & Energy Alternatives	IEA
Limbach Holdings	LMB
Logistec Corporation	LGT
Matrix Service Company	MTRX
Mistras Group	MG
MYR Group Inc.	MYRG
NV5 Global Inc	NVEE
Orion Marine Group, Inc.	ORN
Seacor Holdings (prior to merger with U.S. Shipping Corp on August 13, 2021)	CKH
Sterling Construction Company, Inc.	STRL
Team, Inc.	TISI
Tidewater Inc.	TDW

Given the usage of this peer group for compensation purposes and the fact that each peer is a capital-intensive business, the Company deems it appropriate to also use this peer group for showing the comparative cumulative total return to stockholders of Great Lakes.

#### **Holders of Record**

As of February 19, 2022, the Company had approximately 18 shareholders of record of the Company's common stock. A substantial number of holders of the Company's common stock are "street name" or beneficial holders, whose shares are held of record by banks, brokers and other financial institutions.

#### **Dividends**

The Company does not currently pay dividends to its common stockholders. The declaration and payment of future dividends will be at the discretion of Great Lakes' board of directors and depends on many factors, including general economic and business conditions, the Company's strategic plans, financial results and condition, legal requirements including restrictions and limitations contained in the Company's senior credit agreement, bonding agreements and the indenture relating to the senior unsecured notes and other factors the board of directors deems relevant. Accordingly, the Company cannot ensure the size of any such dividend or that the Company will pay any future dividend.

#### **Item 6. Selected Financial Data**

Not applicable.

**Overview**

Great Lakes is the largest provider of dredging services in the United States. In addition, the Company has a long history of performing significant international projects. The Company operates in one reportable segment.

Dredging generally involves the enhancement or preservation of the navigability of waterways or the protection of shorelines through the removal or replenishment of soil, sand or rock. Domestically, our work generally is performed in coastal waterways and deep water ports. The U.S. dredging market consists of four primary types of work: capital, coastal protection, maintenance and rivers & lakes. Capital dredging consists primarily of port expansion projects, which involve the deepening of channels and berthing basins to allow access by larger, deeper draft ships and the provision of land fill used to expand port facilities. In addition to port work, capital projects also include coastal restoration and land reclamations, trench digging for pipelines, tunnels, and cables and other dredging related to the construction of breakwaters, jetties, canals and other marine structures. Coastal protection projects generally involve moving sand from the ocean floor to shoreline locations where erosion threatens shoreline assets. Maintenance dredging consists of the re-dredging of previously deepened waterways and harbors to remove silt, sand and other accumulated sediments. Due to natural sedimentation, most channels generally require maintenance dredging every one to three years, thus creating a recurring source of dredging work that is typically non-deferrable if optimal commercial navigability is to be maintained. In addition, severe weather such as hurricanes, flooding and droughts can also cause the accumulation of sediments or severe erosion and drive the need for maintenance and coastal protection dredging. Rivers & lakes dredging and related operations typically consist of lake and river dredging, flood control dredging, inland levee and construction dredging, environmental restoration and habitat improvement and other marine construction projects.

The Company’s fleet, which includes 18 dredges, 17 material transportation barges, one drillboat, and numerous other support vessels, is the largest and most diverse fleet of any U.S. dredging company. Our fleet of dredging equipment can be utilized on one or many types of work and in various geographic locations. This flexible approach to our fleet utilization, driven by the project scope and equipment, enables us to move equipment in response to changes in demand for dredging services to take advantage of the most attractive opportunities.

The coronavirus (“COVID-19”) pandemic has severely impacted global economic activity and many countries, including the United States and its governmental entities and private businesses, have reacted by instituting quarantines, mandating school and business closures and limiting travel at various times throughout the pandemic.

On March 28, 2020, dredging was specifically listed in the U.S. Department of Homeland Security’s “Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response” which federally designates the Company as an essential business or “critical infrastructure” company that can maintain operations during the ongoing pandemic. The Company’s largest domestic dredging customer is the Corps; the Corps oversees the majority of these critical infrastructure projects and, in this capacity, has continued to follow their bid schedule and prioritize all types of dredging including port maintenance and expansion and coastal protection projects that are necessary to avoid potential storm damage during hurricane season. Despite the uncertainty surrounding COVID-19, to date, the Corps is continuing to advertise new projects.

Our Executive Leadership team has established a COVID-19 Command Team that meets once each week to update contingency plans, as necessary, and address the challenges related to maintaining operations in this evolving economic environment. The Company’s primary focus has been the health and safety of its employees. The Company has implemented new paid leave policies and additional sanitary and safety measures to mitigate the risk of infection to employees. On vessels and job sites, the Company has instituted fewer employee shift changes and increased sanitary and social distancing measures. During the first half of 2021, the Company began to experience increased project costs and delays related to COVID-19 as several vessel crews were infected despite extensive testing and isolation protocols. Vessels were required to go to shore for crew changes and the vessels had to be disinfected before returning to work. This impacted the vessels’ scheduling and availability which led to project delays. The Company is now 100% fully vaccinated against COVID-19, with few accommodations. Direct COVID-19 related costs were approximately \$9.9 million for the year with nearly the same amount for indirect COVID-19 costs for the year. These costs decreased in the second half of the year as compared to the first half of 2021.

Mid 2021, the Company’s corporate employees began transitioning from a remote working environment to working in person with a hybrid working environment. The Company is following the protocols published by the U.S. Centers for Disease Control and Prevention, the World Health Organization and state and local governments. As the Company’s employees, customers and communities are facing significant challenges, the Company cannot predict how COVID-19 will evolve or the impact it, or actions taken to contain it, will have on future results. Due to the uncertainty that surrounds this virus, the Company will be continually evaluating safety and operational contingency plans and the potential future impact that this evolving environment has on the Company’s business, financial condition and results of operations.

In 2020, the U.S. government enacted the Coronavirus Aid, Relief and Economic Security Act (the “CARES Act”) and other legislation which contain tax incentives designed to help businesses deal with the current economic turmoil caused by the pandemic. The coronavirus relief tax acts provide emergency economic stimulus which, among other things, includes various tax provisions relating to refundable payroll tax credits, deferment of the employer side of certain payroll taxes and social security payments, net operating loss carryback periods, alternative minimum tax credit refunds and modifications to the net interest deduction limitations. The Company elected to defer the employer side of certain payroll taxes and paid the first portion of these taxes in 2021 and will pay the remainder in 2022.

In 2020, the Company announced the relocation of its headquarters from Illinois to Houston, Texas, and the new Houston corporate office opened in the first quarter of 2021. The relocation places the Company closer to key regional customers and new markets, especially along the Gulf Coast and the Mississippi River.

The Company plans to participate in the offshore wind market, and in November 2021, the Company entered into a \$197 million contract with Philly Shipyard to build the first U.S. flagged Jones Act compliant, inclined fall-pipe vessel for subsea rock installation for wind turbine foundations with expected delivery of the vessel in the second half of 2024. This vessel represents a significant critical advancement in building the U.S. logistics infrastructure to support the future of the new U.S. offshore wind industry. The Company has begun bidding on select projects in the offshore wind market.

The current Presidential Administration has pushed to accelerate renewable energy developments and has set a target to install 30GW of offshore wind energy generation capacity by 2030 on the U.S. East Coast. In March 2021, the White House announced new initiatives that will advance the Presidential Administration’s goals to expand the nation’s offshore wind energy capacity in the coming decade by opening new areas of development, improving environmental permitting and increasing public financing for projects.

The Company’s bid market is defined as the aggregate dollar value of domestic dredging projects on which we bid or could have bid if not for capacity constraints or other considerations (“bid market”). We experienced an average combined bid market share in the U.S. of 37% over the prior three years, including 49%, 55%, 19% and 34% of the domestic capital, coastal protection, maintenance and rivers & lakes sectors, respectively.

As mentioned above, the Company’s largest domestic customer is the Corps, which has responsibility for federally funded projects related to navigation and flood control of U.S. waterways. Multi-jurisdictional cost sharing arrangements are allowing the Corps to utilize funds from sources other than the federal budget to prioritize additional projects where waterway infrastructure improvements can have an impact to large regions. Although some of a project’s funding may ultimately be derived from multiple sources, the Corps maintains the authority over the project and is our customer. In 2021, our revenues earned from contracts with federal government agencies were approximately 78% of total revenue, mostly in line with our prior three-year average of 79%.

During the second quarter of 2019, the Company completed the sale of our historical environmental & infrastructure business. The historical environmental & infrastructure segment has been retrospectively presented as discontinued operations and is no longer reflected in continuing operations. Refer to Note 13, “Business dispositions,” to our consolidated financial statements included in Item 15 of this Annual Report on Form 10-K.

## **Contract Revenues**

Most of the Company’s contracts are obtained through competitive bidding on terms specified by the party inviting the bid. The types of equipment required to perform the specified service, project site conditions, the estimated project duration, seasonality, location and complexity of a project affect the cost of performing the contract and the price that contractors will bid.

Fixed-price contracts, which comprise substantially all of the Company’s revenue, will most often represent a single performance obligation as the promise to transfer the individual services is not separately identifiable from other promises in the contracts and, therefore, not distinct. We capitalize certain pre-contract and pre-construction costs, and defer recognition over the life of the contract. Our performance obligations are satisfied over time and revenue is recognized using contract fulfillment costs incurred to date compared to total estimated costs at completion, also known as cost-to-cost, to measure progress towards completion. Contract modifications are changes in the scope or price (or both) of a contract that are approved by the parties to the contract. We recognize a contract modification when the parties to a contract approve a modification that either creates new, or changes existing, enforceable rights and obligations of the parties to the contract. Contract modifications are included in the transaction price only if it is probable that the modification estimate will not result in a significant reversal of revenue. Revisions in estimated gross profit percentages are recorded in the period during which the change in circumstances is experienced or becomes known. As the duration of most of our contracts are one year or less, the cumulative net impact of these revisions in estimates, individually and in the aggregate across our

projects, does not significantly affect our results across annual reporting periods. Provisions for estimated losses on contracts in progress are made in the period in which such losses are determined.

## Costs and Expenses

The components of costs of contract revenues include labor, equipment (including depreciation, maintenance, insurance and long-term rentals), subcontracts, fuel, supplies, short-term rentals and project overhead. Hourly labor generally is hired on a project-by-project basis. The Company is a party to numerous collective bargaining agreements in the U.S. that govern our relationships with our unionized hourly workforce.

## Primary Factors that Determine Operating Profitability

The Company's results of operations for a calendar or quarterly period are generally determined by the following three factors:

- *Bid wins and dredge employment*— The Company recognizes backlog upon a project being awarded. We begin to recognize revenues when a dredging contract commences a major activity on the project. The period prior to the commencement of a major activity for dredging projects can range from 45 days to six months depending on the complexity of the project and environmental work windows. Although our dredging fleet is subject to downtime for scheduled periodic maintenance and regulatory dry dockings, we seek to maximize our revenues by employing our dredging fleet on a full-time basis. If a dredge is idle (i.e., the dredge is not employed on a dredging project or undergoing scheduled periodic maintenance and repair), we do not earn revenue with respect to that dredge during the time period for which it is idle.
- *Project and dredge mix* — The Company's domestic dredging projects generally involve capital, maintenance, coastal protection and rivers & lakes work, while our foreign dredging projects generally involve capital work. In addition, our projects vary in duration which is generally driven by the type of work undertaken. In general, projects of longer duration result in less dredge downtime in a given period. For example, capital deepening projects generally span several years due to their complexity and environmental windows. Moreover, our dredges have different physical performance capabilities and typically work on certain types of dredging projects. Accordingly, our dredges have different daily revenue generating capacities.

We generally expect to achieve different levels of gross profit margin (i.e., gross profit divided by revenues) for work performed on the different types of dredging projects and for work performed by different types of dredges. Our expected gross margin for a project is based upon our estimates at the time of the bid. Although we seek to bid on and win projects that will maximize our gross margin, we cannot control the type of dredging projects that are available for bid from time to time, the type of dredge that is needed to complete these projects, the competitive landscape at the time of bid or the time schedule upon which these projects are required to be completed. As a result, in some quarters the Company works on a mix of dredging projects that, in the aggregate, have relatively high expected gross margins (based on project type and dredges employed) and in other quarters, we work on a mix of dredging projects that, in the aggregate, have relatively low expected gross margins (based on project type and dredges employed).

- *Project execution*—The Company seeks to execute all of our projects consistent with or at a higher production than our as-bid project estimates. In general, our ability to achieve our project estimates depends upon many factors including soil conditions, weather, variances from estimated project conditions, equipment mobilization time periods, unplanned equipment downtime, COVID-19 outbreaks or other events or circumstances beyond our control. If we experience any of these events and circumstances, the completion of a project will often be accelerated or delayed, as applicable, and, consequently, we will experience project results that are better or worse than our estimates. We do our best to estimate for events and circumstances that are not within our control; however, these situations are inherent in dredging.

## Critical Accounting Policies and Estimates

The Company's significant accounting policies are discussed in the Notes to our consolidated financial statements included in Item 15 of this Annual Report on Form 10-K. The application of certain of these policies requires significant judgments or an estimation process that can affect our results of operations, financial position and cash flows, as well as the related footnote disclosures. We base our estimates on historical experience and other assumptions that we believe are reasonable. If actual amounts are ultimately different from previous estimates, the revisions are included in our results of operations for the period in which the actual amounts become known. The following accounting policies comprise those that management believes are the most critical to aid in fully understanding and evaluating our reported financial results.

*Cost-to-cost method of revenue recognition*— Revenue is recognized using contract fulfillment costs incurred to date compared to total estimated costs at completion, also known as cost-to-cost, to measure progress towards completion. Additionally, we capitalize

certain pre-contract and pre-construction costs, and defer recognition over the life of the contract. In preparing estimates, we draw on our extensive experience in the dredging businesses. We use this experience in conjunction with the project specifications to select equipment and to design a production technique for a project. We also utilize our database of historical dredging information which includes daily costs, mobilization and dredge production references on the same or similar projects to ensure that our estimates are as accurate as possible, given current circumstances. The daily costs and project duration are significant factors in our cost estimates to complete the project. Weather events, mechanical delays or other unplanned downtime instances may cause the actual costs to complete the project to differ from these estimates.

Contract modifications are changes in the scope or price (or both) of a contract that are approved by the parties to the contract. We recognize a contract modification when the parties to a contract approve a modification that either creates new, or changes existing, enforceable rights and obligations of the parties to the contract. Contract modifications are included in the transaction price only if it is probable that the modification estimate will not result in a significant reversal of revenue. Contract modifications are routine in the performance of the Company's contracts. In most instances, contract modifications are for services that are not distinct, and, therefore, are accounted for as part of the existing contract. Revisions in estimated gross profit percentages are recorded in the period during which the change in circumstances is experienced or becomes known. As the duration of most of the Company's contracts is one year or less, the cumulative net impact of these revisions in estimates, individually and in the aggregate across projects, does not significantly affect results across annual reporting periods. Provisions for estimated losses on contracts in progress are made in the period in which such losses are determined.

*Impairment of goodwill*—Goodwill is tested for impairment at the reporting unit level on an annual basis and between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying value. The Company believes that this estimate is a critical accounting estimate because: (i) goodwill is a material asset and (ii) the impact of an impairment could be material to the consolidated balance sheet and consolidated statement of operations. We perform our annual impairment test as of July 1 each year.

When conducting the annual impairment test for goodwill, the Company can choose to assess qualitative factors to determine whether it is more likely than not the fair value of the reporting unit is below its carrying value. If a qualitative assessment determines an impairment is more likely than not, the Company is required to perform a quantitative impairment test. Otherwise, no further analysis is required. The Company also may elect to forego this step and just perform the quantitative impairment test.

In the current year, the Company elected to perform a qualitative goodwill impairment test. The Company performed its most recent annual test of impairment as of July 1, 2021 with no indication of impairment as of the test date. As of the test date, the Company determined that it is not more likely than not that the fair value of the reporting unit is less than its carrying amount. The Company has documented the qualitative considerations and determinations to support this conclusion. The Company will perform its next scheduled annual test of goodwill in the third quarter of 2022 should no triggering events occur which would require a test prior to the next annual test. At December 31, 2021 and 2020, our goodwill was \$76.6 million.

## Results of Operations—Fiscal Years Ended December 31, 2021, 2020 and 2019

The following table sets forth the components of net income attributable to common stockholders of Great Lakes Dredge & Dock Corporation and Adjusted EBITDA from continuing operations, as defined below, as a percentage of contract revenues for the years ended December 31, 2021, 2020 and 2019. The selected financial data presented below have been derived from the Company's consolidated financial statements; items may not sum due to rounding.

	<u>2021</u>		<u>2020</u>		<u>2019</u>
Contract revenues	100.0	%	100.0	%	100.0
Costs of contract revenues	<u>(80.0)</u>		<u>(76.7)</u>		<u>(78.4)</u>
Gross profit	20.0		23.3		21.6
General and administrative expenses	(8.6)		(8.6)		(8.3)
Proceeds from loss of use claim	—		0.2		0.6
Gain (loss) on sale of assets—net	—		0.2		(0.2)
Operating income	11.4		15.1		13.7
Interest expense—net	(3.0)		(3.6)		(3.9)
Other income	0.1		0.2		—
Income from continuing operations before income taxes	8.5		11.7		9.8
Income tax provision	(1.8)		(2.8)		(2.1)
Income from continuing operations	6.7		8.9		7.7
Loss from discontinued operations, net of income taxes	—		—		(0.9)
Net income	6.7		8.9		6.8
Adjusted EBITDA from continuing operations	<u>17.6</u>	%	<u>20.6</u>	%	<u>19.1</u>

## Adjusted EBITDA from Continuing Operations

Adjusted EBITDA from continuing operations, as provided herein, represents net income attributable to common stockholders of Great Lakes Dredge & Dock Corporation, adjusted for net interest expense, income taxes, depreciation and amortization expense, debt extinguishment, accelerated maintenance expense for new international deployments, goodwill or asset impairments and gains on bargain purchase acquisitions. Adjusted EBITDA from continuing operations is not a measure derived in accordance with accounting principles generally accepted in the United States of America (“GAAP”). The Company presents Adjusted EBITDA from continuing operations as an additional measure by which to evaluate our operating trends. We believe that Adjusted EBITDA from continuing operations is a measure frequently used to evaluate performance of companies with substantial leverage and that our primary stakeholders (i.e., its stockholders, bondholders and banks) use Adjusted EBITDA from continuing operations to evaluate our period to period performance. Additionally, management believes that Adjusted EBITDA from continuing operations provides a transparent measure of our recurring operating performance and allows management to readily view operating trends, perform analytical comparisons and identify strategies to improve operating performance. For this reason, we use a measure based upon Adjusted EBITDA to assess performance for purposes of determining compensation under our incentive plan. Adjusted EBITDA from continuing operations should not be considered an alternative to, or more meaningful than, amounts determined in accordance with GAAP including: (a) operating income as an indicator of operating performance; or (b) cash flows from operations as a measure of liquidity. As such, the Company’s use of Adjusted EBITDA from continuing operations, instead of a GAAP measure, has limitations as an analytical tool, including the inability to determine profitability or liquidity due to the exclusion of accelerated maintenance expense for new international deployments, goodwill or asset impairments, gains on bargain purchase acquisitions, net interest expense and income tax expense and the associated significant cash requirements and the exclusion of depreciation and amortization, which represent significant and unavoidable operating costs given the level of indebtedness and capital expenditures needed to maintain our business. For these reasons, we use operating income to measure our operating performance and use Adjusted EBITDA from continuing operations only as a supplement. The following is a reconciliation of Adjusted EBITDA from continuing operations to net income attributable to common stockholders of Great Lakes Dredge & Dock Corporation (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Net income	\$ 49,432	\$ 66,103	\$ 49,339
Loss from discontinued operations, net of income taxes	—	—	(6,329)
Income from continuing operations	49,432	66,103	55,668
Adjusted for:			
Interest expense—net	21,601	26,585	27,524
Income tax provision	13,391	20,187	15,253
Depreciation expense	43,016	38,183	37,145
Adjusted EBITDA	<u>\$ 127,440</u>	<u>\$ 151,058</u>	<u>\$ 135,590</u>

## Components of Contract Revenues

The following table sets forth, by type of work, the Company’s contract revenues for the years ended December 31, (in thousands):

Revenues	2021	2020	2019
Capital—U.S.	\$ 397,034	\$ 336,163	\$ 299,706
Capital—foreign	6,596	25,892	48,619
Coastal protection	169,678	201,361	182,369
Maintenance	132,551	148,767	104,753
Rivers & lakes	20,290	21,418	76,071
Total revenues	<u>\$ 726,149</u>	<u>\$ 733,601</u>	<u>\$ 711,518</u>

## Year Ended December 31, 2021 Compared to Year Ended December 31, 2020

Total revenue was \$726.1 million in 2021, a decrease of \$7.5 million, or 1.0%, from 2020 total revenue of \$733.6 million. The decrease in revenues from the prior year was largely attributable to decreases in coastal protection, foreign capital and maintenance revenues. This decrease was partially offset by an increase in domestic capital revenues during the current year as compared to the prior year. The Company categorizes revenue by service type to understand the market in which we operate and to assess how we are performing on bidding work or projects and are generating revenue from backlog.

Domestic capital dredging revenues increased \$60.8 million, or 18.1%, to \$397.0 million in 2021 when compared to 2020 revenues of \$336.2 million. The increase in domestic capital dredging revenue from the prior year was primarily driven by greater revenue earned from deepening projects in Louisiana, Alabama, Massachusetts and South Carolina. This increase was partially offset



by a decrease in revenue earned on projects in Florida and costal restoration projects in Louisiana and Mississippi. We earned 85% of backlog relating to our domestic capital dredging operations that had been carried forward from December 31, 2020.

Revenues from foreign dredging operations in 2021 totaled \$6.6 million, a decrease of \$19.3 million, or 74.5%, from 2020 revenues of \$25.9 million. The decrease in foreign dredging revenue was driven by decreased revenue earned on a project in Bahrain in 2021 as compared to 2020. We earned 100% of backlog relating to our foreign dredging operations that had been carried forward from December 31, 2020.

Coastal protection revenues were \$169.7 million in 2021, a decrease of \$31.7 million, or 15.7%, from \$201.4 million in 2020. The decrease in coastal protection revenue for the year ended December 31, 2021 was mostly attributable to a lower amount of revenue earned on projects in Virginia, South Carolina and New York and New Jersey in the current year as compared to the prior year. This decrease was partially offset by a greater amount of revenue earned on projects in Florida and North Carolina in the current year compared to the prior year. We earned 98% of backlog relating to coastal protection operations that had been carried forward from December 31, 2020.

Revenues from maintenance dredging projects in 2021 were \$132.6 million, a decrease of \$16.2 million, or 10.9%, from \$148.8 million in 2020. The decrease in maintenance revenue during the current year was mostly attributable to lower revenue earned on projects in Maryland, Virginia, New York and New Jersey in the current year compared to the prior year. This decrease was partially offset by greater revenue earned on projects in Louisiana and Florida in the current year. We earned 95% of backlog relating to maintenance dredging projects that had been carried forward from December 31, 2020.

Rivers & lakes revenues were \$20.3 million for 2021, a decrease of \$1.1 million, or 5.1%, from \$21.4 million in 2020. The decrease in rivers & lakes revenue during the current year was mostly attributable to a greater amount of revenue earned during the prior year on a large flood mitigation project in Texas as a result of Hurricane Harvey, as well as a project in Nebraska, when compared to the current year. This decrease was partially offset by revenue earned on projects in Tennessee and Mississippi in the current year. We earned 100% of backlog relating to rivers & lakes operations that had been carried forward from December 31, 2020.

Gross profit for the year ended December 31, 2021 decreased by \$25.9 million, or 15.1%, to \$145.3 million from \$171.2 million for the year ended December 31, 2020. Gross profit margin (gross profit divided by revenue) for the full year 2021 was 20.0%, lower than prior year gross profit margin of 23.3%. The lower gross profit for 2021 was mostly driven by increased costs related to COVID-19 for items such as testing, vessel cleaning, crew quarantining and replacement staffing. In addition, we also had production impacts due to COVID-19 which are not as easy to quantify, but negatively impacted gross margin due to crew shortages, vessel dry dock delays and rescheduling of vessels on projects.

General and administrative expenses totaled \$62.1 million for the year ended December 31, 2021, down from \$62.8 million for the year ended December 31, 2020. The decrease was attributable to decreases in incentive pay compared to the prior year, partially offset by increases in relocation costs and technical and consulting fees of \$2.0 million and \$1.9 million, respectively.

Operating income was \$83.4 million and \$111.8 million for the years ended December 31, 2021 and 2020, respectively. The decrease in operating income during the year ended December 31, 2021 was a result of lower gross profit, partially offset by a decrease in general and administrative expenses, as described above. Additionally, there was a \$1.3 million greater gain on sale of assets and \$1.7 million of proceeds from loss of use claims in the prior year which contributed to the lower operating income in the current year.

The Company's net interest expense for 2021 totaled \$21.6 million compared to \$26.6 million in 2020. The decrease in net interest expense was attributable to a decrease of \$5.2 million in interest expense related to the more favorable interest rate with the new senior note refinancing in the current year.

Income tax provision in 2021 was \$13.4 million, compared to an income tax provision of \$20.2 million in 2020. The decrease in income tax provision is primarily related to lower pretax income during the current year, as described above. The effective tax rate for the year ended December 31, 2021 was 21.3%, below the effective tax rate of 23.4% for the same period of 2020. The lower effective tax rate in the current year was due to a one-time benefit associated with a stock compensation deduction in the current year and an adjustment of tax basis used during the preparation of our prior year provision.

For the year ended December 31, 2021, net income was \$49.4 million compared to net income of \$66.1 million for the year ended December 31, 2020. The decrease in net income of \$16.7 million, down 25.3% from 2020, was driven by the decrease to gross profit, as described above. Additionally, there was a \$1.3 million greater gain on sale of assets in the prior year and \$1.7 million in proceeds from loss of use claims in the prior year that contributed to greater net income in the prior year. The decrease was partially offset by a \$6.8 million decrease in the income tax provision, a \$5.2 million decrease in net interest expense related to the more favorable senior note interest rates and a \$0.7 million decrease to general and administrative expenses during the current year when compared to the prior year.

Adjusted EBITDA (as defined and reconciled on page 40) was \$127.4 million and \$151.1 million for the years ended December 31, 2021 and 2020, respectively. The decrease in Adjusted EBITDA of \$23.7 million, down 15.7% from 2020 was attributable to lower gross profit, excluding depreciation, partially offset by a decrease in general and administrative expenses. Additionally, there was a \$1.3 million greater gain on sale of assets in the prior year and \$1.7 million in proceeds from loss of use claims in the prior year that contributed to higher Adjusted EBITDA in the prior year.

### Year Ended December 31, 2020 Compared to Year Ended December 31, 2019

For a discussion comparing our consolidated operating results from the year ended December 31, 2020 with the year ended December 31, 2019, refer to Part II, Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operation – Year Ended December 31, 2020 Compared to Year Ended December 31, 2019” in our Annual Report on Form 10-K for the year ended December 31, 2020, which was filed with the Commission on February 24, 2021.

### Bidding Activity and Backlog

The following table sets forth, by type of work, the Company’s backlog as of the dates indicated (in thousands):

Backlog	December 31,	December 31,	December 31,
	2021	2020	2019
Capital - U.S.	\$ 398,748	\$ 320,920	\$ 347,377
Capital - foreign	—	6,865	30,571
Coastal protection	99,048	97,986	141,039
Maintenance	50,966	125,090	60,891
Rivers & lakes	2,826	8,515	9,528
Total Backlog	<u>\$ 551,588</u>	<u>\$ 559,376</u>	<u>\$ 589,406</u>

The Company’s contract backlog represents our estimate of the revenues that will be realized under the portion of the contracts remaining to be performed. These estimates are based primarily upon the time and costs required to mobilize the necessary assets to and from the project site, the amount and type of material to be dredged and the expected production capabilities of the equipment performing the work. However, these estimates are necessarily subject to variances based upon actual circumstances. Because of these factors, as well as factors affecting the time required to complete each job, backlog is not always indicative of future revenues or profitability. Also, 62% of our December 31, 2021 backlog relates to federal government contracts, which can be canceled at any time without penalty to the government, subject to our contractual right to recover our actual committed costs and profit on work performed up to the date of cancellation. Our backlog may fluctuate significantly from quarter to quarter based upon the type and size of the projects we are awarded from the bid market. A quarterly increase or decrease of our backlog does not necessarily result in an improvement or a deterioration of our business. Our backlog includes only those projects for which we have obtained a signed contract with the customer.

Approximately 88% of the Company’s backlog at December 31, 2021 is expected to be completed and converted to revenue in 2022.

The 2021 domestic dredging bid market totaled \$1.82 billion, an increase of \$26 million, or 1.5%, compared to the 2020 bid market total of \$1.79 billion. Total domestic dredging bid market for the current year period included awards for Thimble Shoal, Portsmouth, Houston deepening and additional phase of the Boston Harbor, Mobile Deepening and Corpus Christi deepening projects. It also included awards for multiple coastal restoration projects which includes three projects in Florida, two in New Jersey and North Carolina, and one in New York. Additionally, the 2021 bid market included awards for maintenance work on the Jacksonville Harbor, Memphis, Mississippi River and South Atlantic region. There were increases in domestic capital and Coastal Protection projects let to bid in the current period and decreases in maintenance and rivers and lakes projects. The Company won 40% of the overall 2021 domestic bid market, up from a 39% win rate of the overall 2020 domestic bid market. Variability in contract wins from period to period is not unusual. We believe trends in our win rate over the prior three-year periods provide a historical background against which current year results can be compared.

The Company’s December 31, 2021 contracted backlog was \$551.6 million. This represents a decrease of \$7.8 million, or 1.4%, over our December 31, 2020 backlog of \$559.4 million. Backlog at the end of 2021 does not reflect approximately \$567.3 million of domestic low bids pending formal award and additional phases (“options”) pending on projects currently in backlog, including two large LNG projects. At December 31, 2020, the amount of domestic low bids pending award was \$472.3 million.

The Company won 64%, or \$457.7 million, of the domestic capital dredging projects awarded in 2021, compared to 49%, or \$308.7 million, in the prior year. During 2021, the Company was awarded third phase of the Boston Harbor deepening project for

\$61.8 million, the additional phase of the Corpus Christi deepening project for \$139 million, a third phase of Mobile deepening project for \$53.9 million, the Thimble Shoal deepening and renourishment project for \$38.4 million, the Portsmouth capital project for \$25.6 million and Houston deepening for \$92.5 million. Domestic capital dredging work made up \$398.7 million, or 72%, of our December 31, 2021 contracted backlog. During 2021, the Company continued to earn revenue on deepening projects in Charleston, Jacksonville, the Gulf Coast region, two coastal restoration projects in Louisiana and a liquefied natural gas project in Louisiana, which were in backlog at December 31, 2020. We expect 86% of our domestic capital backlog at December 31, 2021 to be performed in 2022, with the remainder to be performed in 2023. Government funded projects coming into the pipeline include new deepening projects for ports in Houston, the Norfolk Harbor Deepening and Freeport Reaches in the Gulf Region. These deepening projects continue the trend of ensuring all East Coast and Gulf of Mexico ports will be able to accommodate the deeper draft vessels currently used on several trade routes. The nation's governors continue to show commitment to their respective ports through engagement and funding. Finally, Congress has also shown a commitment to ports and waterways, providing record annual budgets for the Corps for port deepening and channel maintenance. In addition to this port work, a greater amount of coastal restoration and rehabilitation projects are being funded in the Gulf Coast region as the states utilize available monies for ecosystem priorities, a portion of which is allocated to dredging.

Foreign capital dredging backlog decreased to \$0 at December 31, 2021 from \$6.9 million at the end of 2020. As expected, all of our foreign capital backlog at December 31, 2020 was performed in 2021 with no future foreign projects in the pipeline.

The Company won 58%, or \$195.9 million, of the coastal protection projects awarded in 2021, compared to 65%, or \$152.3 million, in the prior year. During 2021, the Company was awarded three coastal protection projects of \$28.5 million, \$15.6 million and \$11.3 million in Florida, two coastal protection projects in New Jersey for \$12.1 million and \$26.6 million, and one in New York and North Carolina for \$47.5 million and \$17.1, respectively. We have contracted backlog related to coastal protection of \$99.0 million at December 31, 2021 compared to \$98.0 million at the end of 2020. During the year ended December 31, 2021, the Company continued to earn revenue on coastal protection projects in North Carolina, Florida, New Jersey and Louisiana which were in backlog at December 31, 2020. We expect approximately all of our coastal protection backlog at December 31, 2021 to be performed in 2022. Coastal protection and storm impacts continue to provide the major impetus for coastal project investment at federal and state levels. As a result of the extreme storm systems in prior years involving Hurricanes Harvey, Irma, and Maria, the U.S. Congress passed supplemental appropriations for disaster relief and recovery which includes \$17.4 billion for the Corps to fund projects that will reduce the risk of future damage from flood and storm events. The Corps is beginning to provide visibility on its plans for this money, and it is expected that approximately \$1.8 billion will be allocated to dredging-related work. Most of this work is anticipated to be coastal protection related, but some funding may be provided for channel maintenance. During 2019, an additional \$3.3 billion of supplemental appropriations was approved for disaster relief funding as a result of Hurricane Florence and Hurricane Michael. During September 2021, a supplemental bill was passed that included approximately \$5.7 billion for emergency funding as a result of Hurricane Ida impacts. Additionally, in 2021, the U.S. Senate passed the \$1.2 trillion infrastructure bill where the Corps will be granted \$11.6 billion in funding to improve the nation's resilience to the effects of climate change.

The Company won 8%, or \$57.4 million, of the maintenance dredging projects awarded in 2021 compared to 27%, or \$199.7 million, in 2020. During 2021 the Company was awarded a maintenance project of \$24.3 million in the Louisiana, a \$3.3 million project in Florida and a \$25.7 million project in the South Atlantic Regional Harbor. During the year ended December 31, 2021, the Company continued to earn revenue on projects in Louisiana, North Carolina, Florida and Texas which were in backlog at December 31, 2020. Our contracted maintenance dredging backlog at December 31, 2021 of \$51.0 million is \$74.1 million lower than the backlog of \$125.1 million at December 31, 2020. We expect 88% of our maintenance dredging backlog at December 31, 2021 to be performed in 2022. Past Water Resources Development Act ("WRDA") bills called for full use of the Harbor Maintenance Trust Fund ("HMTF") for its intended purpose of maintaining future access to the waterways and ports that support our nation's economy. On March 27, 2020, the U.S. government enacted the CARES Act which includes a provision that lifts caps on the HMTF, thereby allowing full access to future annual revenues. The 2020 Water Resources Development Act (WRDA) legislation was included in the Consolidated Appropriations Act 2021 signed into law on December 27, 2020. This continues the trend of WRDA legislation in each session of Congress since 2014. The legislation provides access to the \$9.3 billion in unspent HMTF tax collections, establishes a funds distribution process for HMTF funding and approves projects to proceed to construction. Through the increased appropriation of HMTF monies, the Company anticipates increased funding for harbor maintenance projects to be let for bid.

The Company won 31%, or \$24.0 million, of the rivers & lakes projects in the markets where the group operates during the current year, compared to 17%, or \$32.1 million, in 2020. During the current year, the Company was awarded one rivers & lakes project in Tennessee and one project in Louisiana. For the year ended December 31, 2021, we continued to earn revenue on a project in Kansas, Texas and Mississippi which was in backlog at December 31, 2020. We have contracted dredging backlog related to rivers & lakes of \$2.8 million at December 31, 2021, which is \$5.7 million lower than the backlog of \$8.5 million at December 31, 2020. We expect approximately all of our rivers & lakes backlog at December 31, 2021 to be performed in 2022.

## ***Liquidity and Capital Resources***

The Company's principal sources of liquidity are net cash flows provided by operating activities, availability under our revolving credit facility and proceeds from issuances of long-term debt. See Note 6, "Long-term debt," to our consolidated financial statements included in Item 15 of this Annual Report on Form 10-K. Our principal uses of cash are to meet debt service requirements, finance capital expenditures, and provide working capital and other general corporate purposes.

The Company's net cash provided by operating activities of continuing operations for the years ended December 31, 2021, 2020 and 2019 totaled \$49.0 million, \$78.9 million and \$201.8 million, respectively. Normal increases or decreases in the level of working capital relative to the level of operational activity impact cash flow from operating activities. The decrease in cash provided by operating activities of continuing operations during 2021 compared to the same period in the prior year was driven by a decrease in net income and an increase in working capital primarily due to an increase in receivables during the current year when compared to the same period in the prior year. This decrease was partially offset by a decrease in the non-cash deferred income taxes recorded in net income in the current year when compared to the prior year period. Cash provided by operating activities for the year ended December 31, 2020 was down compared to 2019 due to higher working capital components during 2020.

The Company's net cash flows used in investing activities of continuing operations for the years ended December 31, 2021, 2020 and 2019 totaled \$112.2 million, \$43.2 million and \$43.8 million, respectively. Investing activities in all periods primarily relate to normal course upgrades and capital maintenance of our dredging fleet. The Company is currently building a 6,500 cubic yard trailing suction hopper dredge with expected delivery in the first quarter of 2023. In November 2021, the Company entered into a \$197 million contract with Philly Shipyard to build the first U.S. flagged Jones Act compliant, inclined fall-pipe vessel for subsea rock installation for wind turbine foundations to support the new U.S. offshore wind industry. In July 2021, the Company announced a contract to build two multifunctional all-purpose vessels ("multicats"). During the twelve months ended December 31, 2021, the Company has invested \$65.5 million towards these new vessels along with smaller scow vessels. In addition, the Company spent \$16.4 million to acquire two dredges that had previously been leased. In 2021, 2020 and 2019, we received \$4.5 million, \$4.5 million and \$5.6 million, respectively, in proceeds from dispositions of property and equipment.

The Company's net cash flows used in financing activities of continuing operations for the years ended December 31, 2021, 2020 and 2019 totaled \$5.9 million, \$6.3 million and \$14.1 million, respectively. On August 4, 2020, the Company announced that its board of directors approved a share repurchase program, authorizing, but not obligating, the repurchase of up to an aggregate amount of \$75.0 million of its common stock from time to time through July 31, 2021. The decrease in cash used in financing activities primarily relates to the absence of stock repurchases being made in 2021 and a decrease in taxes paid on settlement of vested shares awards partially offset by an increase in \$4.4 million of deferred financing fees paid related to the new \$325 million of unsecured 5.25% Senior Notes (the "2029 Notes"). Of the previously announced \$75.0 million share repurchase program, the Company repurchased \$3.9 million of common stock during 2020 and none during the period ended December 31, 2021.

The Company maintains a favorable cash on hand position and revolver availability and as a result is well positioned for changes in the current economic environment. To date, the Company has had various operational or financial impacts as a result of the ongoing COVID-19 pandemic and will continue to assess the potential economic impact that the virus and actions taken to contain it could have on the Company's operations and liquidity.

### *Commitments, contingencies and liquidity matters*

Refer to Note 6, "Long-term debt," in the Notes to Condensed Consolidated Financial Statements for discussion of the Company's Amended Credit Agreement and Senior Notes. Additionally, refer to Note 12, "Commitments and contingencies," in the Notes to Condensed Consolidated Financial Statements for discussion of the Company's surety agreements.

### *Other*

The future declaration and payment of dividends will be at the discretion of the Company's board of directors and will depend on many factors, including general economic and business conditions, our strategic plans, our financial results and condition and legal requirements, including restrictions and limitations contained in the Amended Credit Agreement, surety bonding agreement and the indenture relating to our senior notes. Accordingly, we cannot make any assurances as to the size of any such dividend or that it will pay any such dividend in future quarters.

The Company believes our cash and cash equivalents, our anticipated cash flows from operations and availability under our revolving credit facility will be sufficient to fund our operations, capital expenditures and the scheduled debt service requirements for the next twelve months. Beyond the next twelve months, our ability to fund our working capital needs, planned capital expenditures, scheduled debt payments and dividends, if any, and to comply with all the financial covenants required under the Amended Credit Agreement, depends on our future operating performance and cash flows, which in turn are subject to prevailing economic conditions and to financial, business and other factors, some of which are beyond our control.

**Contractual Obligations**

Additional information related to contractual obligations can be found within this Item 7 in our “Liquidity and Capital Resources” section and also in Note 6, “Long-term debt,” and Note 12, “Commitments and contingencies,” to our consolidated financial statements.

**Other Off-Balance Sheet and Contingent Obligations**

The Company had outstanding letters of credit relating to contract guarantees and insurance payment liabilities totaling \$25.1 million at December 31, 2021. We have granted liens on a substantial portion of the owned operating equipment as security for borrowings under the Amended Credit Agreement and other indebtedness.

At December 31, 2021, the Company had outstanding performance bonds with a notional amount of \$1,164.8 million of which \$17.4 million relates to projects from our historical environmental & infrastructure businesses. The revenue value remaining in backlog related to the projects in continuing operations totaled \$551.6 million.

Certain foreign projects performed by the Company have warranty periods, typically spanning no more than one to three years beyond project completion, whereby we retain responsibility to maintain the project site to certain specifications during the warranty period. Generally, any potential liability of the Company is mitigated by insurance, shared responsibilities with consortium partners, and/or recourse to owner-provided specifications.

The Company considers it unlikely that it would have to perform under any of its contingent obligations.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

In May 2021, the Company sold \$325 million of unsecured 5.25% Senior Notes due June 1, 2029 pursuant to a private offering. The Company used the net proceeds from the offering, together with cash on hand, to redeem all \$325 million aggregate principal amount of its prior outstanding 8% Notes. The 2029 Notes were priced to investors at par and will mature on June 1, 2029. At December 31, 2021, the Company had long-term senior notes outstanding with a recorded face value of \$325.0 million. The fair value of these existing notes, which bear interest at a fixed rate of 5.25%, was \$334.8 million at December 31, 2021 based on market prices. Assuming a 10% decrease in interest rates from the rates at December 31, 2021 the fair value of this fixed rate debt would have increased to \$345.0 million.

A significant operating cost for the Company is diesel fuel, which represents approximately 8% of our costs of contract revenues. We use fuel commodity forward contracts, typically with durations of less than one year, to reduce the impacts of changing fuel prices on operations. We do not purchase fuel hedges for trading purposes. Based on our 2022 projected domestic fuel consumption, an approximate 10% increase in the average price per gallon of fuel would have a \$0.6 million effect on fuel expense, after the effect of fuel commodity contracts in place at December 31, 2021. At December 31, 2021 we had outstanding arrangements to hedge the price of a portion of our fuel purchases related to domestic dredging work in backlog, representing approximately 80% of its anticipated domestic fuel requirements through December 2022. As of December 31, 2021, there were 10.2 million gallons remaining on these contracts. Under these agreements, we will pay fixed prices ranging from \$1.25 to \$2.46 per gallon. At December 31, 2021, the fair value asset on these contracts was \$0.6 million, based on quoted market prices and is recorded in other current assets. A 10% change in forward fuel prices would result in a \$2.5 million change in the fair value of fuel hedges outstanding at December 31, 2021.

**Item 8. Financial Statements and Supplementary Data**

The consolidated financial statements (including financial statement schedules listed under Item 15 of this Report) of the Company called for by this Item, together with the Report of Independent Registered Public Accounting Firm dated February 23, 2022, are set forth on pages 48 to 73 inclusive, of this Report, and are hereby incorporated by reference into this Item. Financial statement schedules not included in this Report have been omitted because they are not applicable or because the information called for is shown in the consolidated financial statements or notes thereto.

**Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures****Disclosure Controls and Procedures.****a) Evaluation of disclosure controls and procedures**

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the Company's disclosure controls and procedures, as required by Rule 13a-15(b) under the Securities Exchange Act of 1934 (the "Exchange Act") as of December 31, 2021. Our disclosure controls and procedures are designed to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act (a) is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding disclosure and (b) is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms.

Based on that evaluation, the Chief Executive Officer and the Chief Financial Officer have concluded that the Company's disclosure controls and procedures, as designed and implemented, were effective as of December 31, 2021. Notwithstanding the foregoing, a control system, no matter how well designed, implemented and operated can provide only reasonable, not absolute, assurance that it will detect or uncover failures within the Company to disclose material information otherwise required to be set forth in our periodic reports.

**b) Changes in internal control over financial reporting**

There were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) during the fiscal quarter ended December 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**c) Management's annual report on internal control over financial reporting**

The management of Great Lakes Dredge & Dock Corporation, including its Chief Executive Officer and Chief Financial Officer, 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 1934). Management has used the framework set forth in the report entitled *Internal Control—Integrated Framework (2013)* published by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) to evaluate the effectiveness of the Company’s internal control over financial reporting.

The phrase internal control over financial reporting refers to the process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer, and overseen by our Board of Directors, management and other personnel, 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, and includes those policies and procedures that:

- Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with general 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
- 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.

Neither internal control over financial reporting nor disclosure controls and procedures can provide absolute assurance of achieving financial reporting objectives because of their inherent limitations. Internal control over financial reporting and disclosure controls are processes that involve human diligence and compliance, and are subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting and disclosure controls also can be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented, detected or reported on a timely basis by internal control over financial reporting or disclosure controls. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design safeguards for these processes that will reduce, although may not eliminate, these risks.

Our independent registered public accounting firm, Deloitte & Touche LLP, who audited Great Lakes’ consolidated financial statements included in this Annual Report on Form 10-K, has issued a report on Great Lakes’ internal control over financial reporting, which is included herein.

Management has concluded that our internal control over financial reporting was effective as of December 31, 2021.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Great Lakes Dredge & Dock Corporation

### Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Great Lakes Dredge & Dock Corporation and subsidiaries (the “Company”) as of December 31, 2021, 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 Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2021, of the Company and our report dated February 23, 2022, expressed an unqualified opinion on those financial statements.

### Basis for Opinion

The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management’s Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### 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 (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) 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 (3) 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/ Deloitte & Touche LLP

Chicago, Illinois  
February 23, 2022



**Item 9B. Other Information**

None

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections**

None.

**Item 10. Directors, Executive Officers and Corporate Governance**

Information regarding our executive officers is incorporated by reference herein from the discussion under Item 1. “Business—Information about our Executive Officers” in this Annual Report on Form 10-K.

**Code of Ethics**

The Company has adopted a written code of business conduct and ethics that applies to all of our employees, including our principal executive officer, principal financial officer, principal accounting officer, controller, and persons performing similar functions. The Company’s code of ethics can be found on our website at [www.gldd.com](http://www.gldd.com). We will post on our website any amendments to or waivers of the code of business conduct and ethics for executive officers or directors, in accordance with applicable laws and regulations.

The remaining information called for by this Item 10 is incorporated by reference herein from the discussions under the headings “Election of Directors,” “Corporate Governance,” “Security Ownership of Certain Beneficial Owners and Management” and “Delinquent Section 16(a) Reports” in the definitive Proxy Statement for the 2022 Annual Meeting of Stockholders.

**Item 11. Executive Compensation**

The information required by Item 11 of Form 10-K is incorporated by reference herein from the discussions under the headings “Executive Compensation Tables,” “Compensation Discussion and Analysis,” “Corporate Governance” and “CEO Pay Ratio” in the definitive Proxy Statement for the 2022 Annual Meeting of Stockholders.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

The information required by Item 12 of Form 10-K is incorporated by reference herein from the discussion under the headings “Security Ownership of Certain Beneficial Owners and Management” and “Equity Compensation Plan Information” in our definitive Proxy Statement for the 2022 Annual Meeting of Stockholders.

**Item 13. Certain Relationships and Related Transactions, and Director Independence**

The information required by Item 13 of Form 10-K is incorporated by reference herein from the discussions under the headings “Corporate Governance” and “Potential Payments Upon Termination or Change of Control” and “Certain Relationships and Related Transactions” in the definitive Proxy Statement for the 2022 Annual Meeting of Stockholders.

**Item 14. Principal Accounting Fees and Services**

The information required by Item 14 of Form 10-K is incorporated by reference herein from the discussion under the heading “Matters Related to Independent Registered Public Accounting Firm” in the definitive Proxy Statement for the 2022 Annual Meeting of Stockholders.

**Item 15. Exhibits, Financial Statement Schedules**

**(a) Documents filed as part of this report**

**1. Financial Statements**

The financial statements are set forth on pages 48 to 73 of this Report and are incorporated by reference in Item 8 of this Report.

**2. Financial Statement Schedules**

All other schedules, except Schedule II—Valuation and Qualifying Accounts on page 74, are omitted because they are not required or the required information is shown in the financial statements or notes thereto.

**3. Exhibits**

The exhibits required to be filed by Item 601 of Regulation S-K are listed in the “Exhibit Index” which is attached hereto and incorporated by reference herein.

**Item 16. Form 10-K Summary**

None.

GREAT LAKES DREDGE & DOCK CORPORATION AND SUBSIDIARIES

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Great Lakes Dredge & Dock Corporation

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Great Lakes Dredge & Dock Corporation and subsidiaries (the "Company") as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive income, statements of equity, and cash flows, for each of the three years in the period ended December 31, 2021, and the related notes and the schedule listed in the Index at Item 15 (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 23, 2022, expressed an unqualified opinion on the Company's internal control over financial reporting.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

### Revenue Recognition – Estimated Costs at Completion— Refer to Notes 1 and 10 to the financial statements

#### *Critical Audit Matter Description*

During 2021, the Company's contract revenues were \$726.1 million, all of which represented revenue recognized over time as work progressed on individual contracts. The Company recognizes revenue on its contracts utilizing the cost-to-cost method for determining progress toward completion of each contract. Revenue is recognized using contract fulfillment costs incurred to date compared to total estimated fulfillment costs at completion. Daily costs and project duration are significant factors in management's estimate of fulfillment costs at completion.

We identified estimated contract fulfillment costs at completion used in revenue recognition as a critical audit matter because of the judgments inherent in management's estimates related to contracts that were in progress at December 31, 2021. This required extensive audit effort and a high degree of auditor judgment when performing audit procedures on the total estimated contract fulfillment costs which underlie management's determination of revenue on contracts in progress.

### *How the Critical Audit Matter Was Addressed in the Audit*

Our audit procedures related to contract fulfillment costs incurred to date and management's estimates of the total costs at completion for contracts in progress included the following, among others:

- We tested the effectiveness of internal controls over revenue recognition, including management's internal controls over contract fulfillment costs incurred to date and estimated total costs at completion.
- We selected a sample of contracts with customers and we performed the following:
  - Tested management's process of determining the estimated cost to complete the contract and evaluated management's ability to achieve the estimates of total cost by obtaining relevant support and inquiring with the Company's project managers and engineers, comparing the estimates to management's work plans, and comparing expected profit margins to those achieved on similar contracts to determine whether the estimates were within an acceptable range.
  - For certain contracts, we performed in-person or virtual site visits and held meetings with the project site managers to discuss the contract activities. We utilized global positioning system tracking technology to validate equipment deployed on-site for site visits held virtually.
- We evaluated management's ability to accurately estimate contract fulfillment costs at completion by performing a hindsight analysis using historical contracts and comparing the margin at contract inception compared to margin at contract completion.
- We tested the accuracy and occurrence of contract fulfillment costs incurred to date by selecting a sample of costs from contract cost general ledger detail and obtaining supporting documentation in the form of invoices or pay statements and time-charged records.
- We compared total actual costs incurred on projects completed during the year to management's estimates as of the prior year end to evaluate management's ability to accurately forecast total contract fulfillment costs at completion.

/s/ Deloitte & Touche LLP

Chicago, Illinois  
February 23, 2022

Great Lakes Dredge & Dock Corporation and Subsidiaries

Consolidated Balance Sheets  
As of December 31, 2021 and 2020  
(in thousands, except per share amounts)

	2021	2020
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 145,459	\$ 216,510
Accounts receivable—net	82,953	38,990
Contract revenues in excess of billings	39,844	32,106
Inventories	30,760	34,689
Prepaid expenses	2,017	3,091
Other current assets	26,399	37,307
Total current assets	<u>327,432</u>	<u>362,693</u>
PROPERTY AND EQUIPMENT—Net	455,102	383,042
OPERATING LEASE ASSETS	62,233	65,188
GOODWILL	76,576	76,576
INVENTORIES—Noncurrent	65,049	58,413
OTHER	11,278	12,112
TOTAL	<u>\$ 997,670</u>	<u>\$ 958,024</u>
<b>LIABILITIES AND EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 85,566	\$ 71,308
Accrued expenses	37,626	52,899
Operating lease liabilities	16,729	19,472
Billings in excess of contract revenues	14,814	32,608
Total current liabilities	<u>154,735</u>	<u>176,287</u>
LONG-TERM DEBT	320,971	323,735
OPERATING LEASE LIABILITIES—Noncurrent	45,986	45,879
DEFERRED INCOME TAXES	68,497	56,466
OTHER	8,484	8,989
Total liabilities	<u>598,673</u>	<u>611,356</u>
<b>COMMITMENTS AND CONTINGENCIES (Note 12)</b>		
<b>EQUITY:</b>		
Common stock—\$.0001 par value; 90,000 authorized, 65,746 and 65,023 shares issued and outstanding at December 31, 2021 and December 31, 2020, respectively.	6	6
Additional paid-in capital	308,482	304,757
Accumulated retained earnings	90,369	40,937
Accumulated other comprehensive income	140	968
Total equity	<u>398,997</u>	<u>346,668</u>
TOTAL	<u>\$ 997,670</u>	<u>\$ 958,024</u>

See notes to consolidated financial statements.

**Great Lakes Dredge & Dock Corporation and Subsidiaries**

**Consolidated Statements of Operations**  
**For the Years Ended December 31, 2021, 2020 and 2019**  
**(in thousands, except per share amounts)**

	<u>2021</u>	<u>2020</u>	<u>2019</u>
CONTRACT REVENUES	\$ 726,149	\$ 733,601	\$ 711,518
COSTS OF CONTRACT REVENUES	580,879	562,373	557,761
GROSS PROFIT	145,270	171,228	153,757
<b>OPERATING EXPENSES:</b>			
GENERAL AND ADMINISTRATIVE EXPENSES	62,134	62,757	59,110
PROCEEDS FROM LOSS OF USE CLAIM	—	(1,723)	(4,619)
(GAIN) LOSS ON SALE OF ASSETS—Net	(294)	(1,571)	1,138
Total operating income	83,430	111,765	98,128
<b>OTHER EXPENSE:</b>			
Interest expense—net	(21,601)	(26,585)	(27,524)
Other income	994	1,110	317
Total other expense	(20,607)	(25,475)	(27,207)
INCOME FROM CONTINUING OPERATIONS BEFORE INCOME TAXES	62,823	86,290	70,921
INCOME TAX PROVISION	(13,391)	(20,187)	(15,253)
INCOME FROM CONTINUING OPERATIONS	49,432	66,103	55,668
Loss from discontinued operations, net of income taxes	—	—	(6,329)
NET INCOME	\$ 49,432	\$ 66,103	\$ 49,339
Basic earnings per share attributable to income from continuing operations	\$ 0.75	\$ 1.02	\$ 0.88
Basic loss per share attributable to loss on discontinued operations, net of income taxes	—	—	(0.10)
Basic earnings per share	\$ 0.75	\$ 1.02	\$ 0.78
Basic weighted average shares	65,587	64,743	63,597
Diluted earnings per share attributable to income from continuing operations	\$ 0.75	\$ 1.00	\$ 0.86
Diluted loss per share attributable to loss on discontinued operations, net of income taxes	—	—	(0.10)
Diluted earnings per share	\$ 0.75	\$ 1.00	\$ 0.76
Diluted weighted average shares	66,301	65,872	65,042

See notes to consolidated financial statements.



Great Lakes Dredge & Dock Corporation and Subsidiaries

Consolidated Statements of Comprehensive Income  
For the Years Ended December 31, 2021, 2020 and 2019  
(in thousands)

	2021	2020	2019
Net income	\$ 49,432	\$ 66,103	\$ 49,339
Net change in cash flow derivative hedges—net of tax (1)	(828)	673	4,104
Comprehensive income	<u>\$ 48,604</u>	<u>\$ 66,776</u>	<u>\$ 53,443</u>

(1) Net of income tax (provision) benefit of \$280, \$217 and \$(421) for the years ended December 31, 2021, 2020 and 2019, respectively.

See notes to consolidated financial statements.

Great Lakes Dredge & Dock Corporation and Subsidiaries

Consolidated Statements of Equity  
For the Years Ended December 31, 2021, 2020 and 2019  
(in thousands)

Great Lakes Dredge & Dock Corporation shareholders

	Shares of Common Stock	Common Stock	Shares of Treasury Stock	Treasury Stock	Additional Paid-In Capital	Accumulated Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total
BALANCE—January 1, 2019	62,830	\$ 6	(278)	\$ (1,433)	\$ 295,135	\$ (74,971)	\$ (3,809)	\$214,928
Cumulative effect of recent accounting pronouncements	—	—	—	—	—	2,802	—	2,802
Share-based compensation	73	—	—	—	8,395	—	—	8,395
Vesting of restricted stock units, including impact of shares withheld for taxes	873	—	—	—	(5,008)	—	—	(5,008)
Exercise of stock options and purchases from employee stock purchase plan	785	—	—	—	4,839	—	—	4,839
Cancellation of treasury stock	(278)	—	278	1,433	(1,172)	(261)	—	—
Net income	—	—	—	—	—	49,339	—	49,339
Other comprehensive income—net of tax	—	—	—	—	—	—	4,104	4,104
BALANCE—December 31, 2019	<u>64,283</u>	<u>\$ 6</u>	<u>—</u>	<u>\$ —</u>	<u>\$ 302,189</u>	<u>\$ (23,091)</u>	<u>\$ 295</u>	<u>\$279,399</u>
Share-based compensation	94	—	—	—	6,754	—	—	6,754
Vesting of restricted stock units, including impact of shares withheld for taxes	741	—	—	—	(4,748)	—	—	(4,748)
Exercise of stock options and purchases from employee stock purchase plan	331	—	—	—	2,360	—	—	2,360
Repurchase of common stock	(426)	—	—	—	(1,798)	(2,075)	—	(3,873)
Net income	—	—	—	—	—	66,103	—	66,103
Other comprehensive income—net of tax	—	—	—	—	—	—	673	673
BALANCE—December 31, 2020	<u>65,023</u>	<u>\$ 6</u>	<u>—</u>	<u>\$ —</u>	<u>\$ 304,757</u>	<u>\$ 40,937</u>	<u>\$ 968</u>	<u>\$346,668</u>
Share-based compensation	35	—	—	—	5,188	—	—	5,188
Vesting of restricted stock units, including impact of shares withheld for taxes	431	—	—	—	(3,785)	—	—	(3,785)
Exercise of stock options and purchases from employee stock purchase plan	257	—	—	—	2,322	—	—	2,322
Net income	—	—	—	—	—	49,432	—	49,432
Other comprehensive loss—net of tax	—	—	—	—	—	—	(828)	(828)
BALANCE—December 31, 2021	<u>65,746</u>	<u>\$ 6</u>	<u>—</u>	<u>\$ —</u>	<u>\$ 308,482</u>	<u>\$ 90,369</u>	<u>\$ 140</u>	<u>\$398,997</u>

See notes to consolidated financial statements.

**Great Lakes Dredge & Dock Corporation and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**For the Years Ended December 31, 2021, 2020 and 2019**  
(in thousands)

	2021	2020	2019
<b>OPERATING ACTIVITIES:</b>			
Net income	\$ 49,432	\$ 66,103	\$ 49,339
Loss from discontinued operations, net of income taxes	—	—	(6,329)
Income from continuing operations	49,432	66,103	55,668
Adjustments to reconcile net income to net cash flows provided by operating activities:			
Depreciation expense	43,016	38,183	37,145
Deferred income taxes	12,311	20,508	15,134
(Gain) loss on dispositions of property and equipment	(294)	(1,571)	1,138
Amortization of deferred financing fees	2,349	1,611	2,746
Share-based compensation expense	5,188	6,754	6,908
Changes in assets and liabilities:			
Accounts receivable	(43,963)	(19,205)	44,994
Contract revenues in excess of billings	(7,738)	(9,546)	(4,607)
Inventories	(2,706)	(2,383)	(1,939)
Prepaid expenses and other current assets	10,873	1,466	(8,539)
Accounts payable and accrued expenses	(698)	(3,328)	12,546
Billings in excess of contract revenues	(17,794)	(22,658)	37,473
Other noncurrent assets and liabilities	(969)	3,013	3,120
Net cash flows provided by operating activities of continuing operations	49,007	78,947	201,787
Net cash flows used in operating activities of discontinued operations	—	—	(9,238)
Cash provided by operating activities	49,007	78,947	192,549
<b>INVESTING ACTIVITIES:</b>			
Purchases of property and equipment	(116,658)	(47,621)	(49,412)
Proceeds from dispositions of property and equipment	4,459	4,450	5,592
Net cash flows used in investing activities of continuing operations	(112,199)	(43,171)	(43,820)
Net cash flows provided by investing activities of discontinued operations	—	—	18,056
Cash used in investing activities	(112,199)	(43,171)	(25,764)

	2021	2020	2019
<b>FINANCING ACTIVITIES:</b>			
Repayments of debt	(325,000)	—	—
Proceeds from issuance of debt	325,000	—	—
Deferred financing fees	(4,395)	—	(2,388)
Taxes paid on settlement of vested share awards	(3,785)	(4,748)	(5,008)
Exercise of stock options and purchases from employee stock plans	2,321	2,360	4,839
Repurchase of common stock	-	(3,873)	—
Repayments of revolving loans	—	-	(11,500)
Net cash flows used in financing activities of continuing operations	(5,859)	(6,261)	(14,057)
Net cash flows used in financing activities of discontinued operations	—	-	(191)
Cash used in financing activities	(5,859)	(6,261)	(14,248)
Net (decrease) increase in cash, cash equivalents and restricted cash	(69,051)	29,515	152,537
Cash, cash equivalents and restricted cash at beginning of period	216,510	186,995	34,458
Cash, cash equivalents and restricted cash at end of period	<u>\$ 147,459</u>	<u>\$ 216,510</u>	<u>\$ 186,995</u>
Cash and cash equivalents	\$ 145,459	\$ 216,510	\$ 186,995
Restricted cash included in other long-term assets	2,000	—	—
Cash, cash equivalents and restricted cash at end of period	<u>\$ 147,459</u>	<u>\$ 216,510</u>	<u>\$ 186,995</u>
<b>Supplemental Cash Flow Information</b>			
Cash paid for interest	<u>\$ 22,919</u>	<u>\$ 26,430</u>	<u>\$ 24,942</u>
Cash paid for income taxes	<u>\$ 637</u>	<u>\$ 392</u>	<u>\$ 366</u>
<b>Non-cash Investing and Financing Activities</b>			
Property and equipment purchased but not yet paid	<u>\$ 7,010</u>	<u>\$ 6,693</u>	<u>\$ 6,473</u>

See notes to consolidated financial statements.

GREAT LAKES DREDGE & DOCK CORPORATION AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

AS OF December 31, 2021 AND 2020 AND FOR THE

YEARS ENDED December 31, 2021, 2020 AND 2019

(In thousands, except per share amounts or as otherwise noted)

1. NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Organization**—Great Lakes Dredge & Dock Corporation and its subsidiaries (the “Company” or “Great Lakes”) are in the business of marine construction, primarily dredging. The Company is the largest provider of dredging services in the United States. In addition, the Company has a long history of performing significant international projects. The mobility of the Company’s fleet enables the Company to move equipment in response to changes in demand for dredging services

**Principles of Consolidation and Basis of Presentation**—The consolidated financial statements include the accounts of Great Lakes Dredge & Dock Corporation and its majority-owned subsidiaries. All intercompany accounts and transactions are eliminated in consolidation. The equity method of accounting is used for investments in unconsolidated investees in which the Company has significant influence, but not control. Other investments, if any, are carried at cost.

**Use of Estimates**—The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (“GAAP”) requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**Revenue and Cost Recognition on Contracts**—Revenue is recognized using contract fulfillment costs incurred to date compared to total estimated costs at completion, also known as cost-to-cost, to measure progress towards completion. Additionally, the Company capitalizes certain pre-contract and pre-construction costs, and defers recognition over the life of the contract. The Company’s performance obligations are satisfied over time and revenue is recognized using the cost-to-cost method, described above. Contract modifications are changes in the scope or price (or both) of a contract that are approved by the parties to the contract. The Company recognizes a contract modification when the parties to a contract approve a modification that either creates new, or changes existing, enforceable rights and obligations of the parties to the contract. Contract modifications are routine in the performance of the Company’s contracts. In most instances, contract modifications are for services that are not distinct, and, therefore, are accounted for as part of the existing contract. Contract modifications are included in the transaction price only if it is probable that the modification estimate will not result in a significant reversal of revenue. Revisions in estimated gross profit percentages are recorded in the period during which the change in circumstances is experienced or becomes known. As the duration of most of the Company’s contracts is one year or less, the cumulative net impact of these revisions in estimates, individually and in the aggregate across projects, does not significantly affect results across annual reporting periods. Provisions for estimated losses on contracts in progress are made in the period in which such losses are determined.

The components of costs of contract revenues include labor, equipment (including depreciation, maintenance, insurance and long-term rentals), subcontracts, fuel, supplies, short-term rentals and project overhead. Hourly labor generally is hired on a project-by-project basis. The Company is a party to numerous collective bargaining agreements in the U.S. that govern its relationships with its unionized hourly workforce.

**Classification of Current Assets and Liabilities**—The Company includes in current assets and liabilities amounts realizable and payable in the normal course of contract completion, unless completion of such contracts extends significantly beyond one year.

**Cash Equivalents**—The Company considers all highly liquid investments with a maturity at purchase of three months or less to be cash equivalents.

**Accounts Receivable**—Accounts receivable represent amounts due or billable under the terms of contracts with customers, including amounts related to retainage. The Company anticipates collection of retainage generally within one year, and accordingly presents retainage as a current asset. The Company provides an allowance for estimated uncollectible accounts receivable based on historical and expected losses and when events or conditions indicate that amounts outstanding are not recoverable.

**Inventories**—Inventories consist of pipe and spare parts used in the Company’s dredging operations. Pipe and spare parts are purchased in large quantities; therefore, a certain amount of pipe and spare part inventories is not anticipated to be used within the current year and is classified as long-term. Spare part inventories are stated at weighted average historical cost, and are charged to expense when used in operations. Pipe inventory is recorded at cost and amortized to expense over the period of its use.

**Property and Equipment**—Capital additions, improvements, and major renewals are classified as property and equipment and are carried at depreciated cost. Maintenance and repairs that do not significantly extend the useful lives of the assets or enhance the capabilities of such assets are charged to expenses as incurred. Depreciation is recorded over the estimated useful lives of property and equipment using the straight-line method and the mid-year depreciation convention. The estimated useful lives by class of assets are:

<u>Class</u>	<u>Useful Life (years)</u>
Buildings and improvements	10
Furniture and fixtures	5-10
Vehicles, dozers, and other light operating equipment and systems	3-5
Heavy operating equipment (dredges and barges)	10-30

Leasehold improvements are amortized over the shorter of their remaining useful lives or the remaining terms of the leases.

**Goodwill**—Goodwill represents the excess of acquisition cost over fair value of the net assets acquired. Goodwill is tested annually for impairment in the third quarter of each year, or more frequently should circumstances dictate. GAAP requires that goodwill of a reporting unit be tested for impairment between annual tests if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying amount.

When conducting the annual impairment test for goodwill, the Company can choose to assess qualitative factors to determine whether it is more likely than not the fair value of the reporting unit is below its carrying value. If a qualitative assessment determines an impairment is more likely than not, the Company is required to perform a quantitative impairment test. Otherwise, no further analysis is required. The Company also may elect to forego this step and just perform the quantitative impairment test.

The Company has one operating segment which is also the Company's one reportable segment and reporting unit of which the Company tests goodwill for impairment. In the current year, the Company elected to perform a qualitative goodwill impairment test in accordance with ASC 350-20. The Company performed its most recent annual test of impairment as of July 1, 2021 with no indication of impairment as of the test date. As of the test date, the Company determined that it is not more likely than not that the fair value of the reporting unit is less than its carrying amount. The Company has documented the qualitative considerations and determinations to support this conclusion. The Company will perform its next scheduled annual test of goodwill in the third quarter of 2022 should no triggering events occur which would require a test prior to the next annual test.

**Long-Lived Assets**—Long-lived assets are comprised of property and equipment subject to amortization. Long-lived assets to be held and used are reviewed for possible impairment whenever events indicate that the carrying amount of such assets may not be recoverable by comparing the undiscounted cash flows associated with the assets to their carrying amounts. If such a review indicates an impairment, the carrying amount would be reduced to fair value. No triggering events were identified in 2021 or 2020. If long-lived assets are to be disposed, depreciation is discontinued, if applicable, and the assets are reclassified as held for sale at the lower of their carrying amounts or fair values less estimated costs to sell.

**Self-insurance Reserves**—The Company self-insures costs associated with its seagoing employees covered by the provisions of Jones Act, workers' compensation claims, hull and equipment liability, and general business liabilities up to certain limits. Insurance reserves are established for estimates of the loss that the Company may ultimately incur on reported claims, as well as estimates of claims that have been incurred but not yet reported. In determining its estimates, the Company considers historical loss experience and judgments about the present and expected levels of cost per claim. Trends in actual experience are a significant factor in the determination of such reserves.

**Income Taxes**—The provision for income taxes includes federal, foreign, and state income taxes currently payable and those deferred because of temporary differences between the financial statement and tax basis of assets and liabilities. Recorded deferred income tax assets and liabilities are based on the estimated future tax effects of differences between the financial and tax basis of assets and liabilities, given the effect of currently enacted tax laws. Refer to Note 8, Income Taxes.

**Hedging Instruments**—At times, the Company designates certain derivative contracts as a cash flow hedge as defined by GAAP. Accordingly, the Company formally documents, at the inception of each hedge, all relationships between hedging instruments and hedged items, as well as its risk-management objective and strategy for undertaking hedge transactions. This process includes linking all derivatives to highly-probable forecasted transactions.

The Company formally assesses, at inception and on an ongoing basis, the effectiveness of hedges in offsetting changes in the cash flows of hedged items. Hedge accounting treatment may be discontinued when (1) it is determined that the derivative is no longer highly effective in offsetting changes in the cash flows of a hedged item (including hedged items for forecasted future transactions),

(2) the derivative expires or is sold, terminated or exercised, (3) it is no longer probable that the forecasted transaction will occur or (4) management determines that designating the derivative as a hedging instrument is no longer appropriate. If management elects to stop hedge accounting, it would be on a prospective basis and any hedges in place would be recognized in accumulated other comprehensive income (loss) until all the related forecasted transactions are completed or are probable of not occurring.

**Recent Accounting Pronouncements**—In January 2021, the Financial Accounting Standards Board (“FASB”) amended ASU No. 2020-04 (“ASU 2020-04”) into ASU No. 2021-01 (“ASU 2021-01”), *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*. The amendment provides optional expedients and exceptions to applying the guidance on contract modifications, hedge accounting and other transactions to simplify the accounting for transitioning from the London Interbank Offered Rate (“LIBOR”), and other interbank offered rates expected to be discontinued, to alternative reference rates. The guidance in this update was effective upon its issuance; if elected, it is to be applied prospectively through December 31, 2022. The Company is currently evaluating the effect the potential adoption of this ASU will have on the Company’s consolidated financial statements.

## 2. EARNINGS PER SHARE

Basic earnings per share is computed by dividing net income attributable to common stockholders by the weighted-average number of common shares outstanding during the reporting period. Diluted earnings per share is computed similar to basic earnings per share except that it reflects the potential dilution that could occur if dilutive securities or other obligations to issue common stock were exercised or converted into common stock.

The computations for basic and diluted earnings per share for the years ended December 31, 2021, 2020 and 2019 are as follows:

(shares in thousands)	2021	2020	2019
Income from continuing operations	\$ 49,432	\$ 66,103	\$ 55,668
Loss on discontinued operations, net of income taxes	—	—	(6,329)
Net income	\$ 49,432	\$ 66,103	\$ 49,339
Weighted-average common shares outstanding — basic	65,587	64,743	63,597
Effect of stock options and restricted stock units	714	1,129	1,445
Weighted-average common shares outstanding — diluted	66,301	65,872	65,042
Earnings per share from continuing operations — basic	\$ 0.75	\$ 1.02	\$ 0.88
Earnings per share from continuing operations — diluted	\$ 0.75	\$ 1.00	\$ 0.86

For the years ended December 31, 2021, 2020 and 2019, 1 thousand, 1 thousand and 16 thousand, respectively, non-qualified stock options (“NQSOs”) and restricted stock units (“RSUs”) were excluded from the calculation of diluted earnings per share based on the application of the treasury stock method, as such NQSOs and RSUs were determined to be anti-dilutive.

## 3. PROPERTY AND EQUIPMENT

Property and equipment at December 31, 2021 and 2020 are as follows:

	2021	2020
Land	\$ 9,992	\$ 9,992
Buildings and improvements	1,315	1,315
Furniture and fixtures	18,568	17,251
Operating equipment	869,953	762,350
Total property and equipment	899,828	790,908
Accumulated depreciation	(444,726)	(407,866)
Property and equipment — net	\$ 455,102	\$ 383,042

Operating equipment of \$2,900 was classified as held for sale, excluded from property and equipment, as of December 31, 2020.

Depreciation expense was \$43,016, \$38,183 and \$37,145, for the years ended December 31, 2021, 2020 and 2019, respectively.

#### 4. LEASES

The Company leases certain operating equipment and office facilities under long-term operating leases expiring at various dates through 2030. Leases with an initial term greater than twelve months are recorded on the Company's balance sheet as an operating lease asset and operating lease liability and are measured at the present value of lease payments over the lease term. Substantially all of the Company's leases are classified as operating leases. Leases with an initial term of twelve months or less with purchase options or extension options that are not reasonably certain to be exercised are not recorded on the balance sheet. The Company recognizes lease expense for these leases on a straight-line basis over the lease term.

The equipment leases contain renewal or purchase options that specify prices at the then fair value upon the expiration of the lease terms. The leases also contain default provisions that are triggered by an acceleration of debt maturity under the terms of the Company's Amended Credit Agreement, or, in certain instances, cross default to other equipment leases and certain lease arrangements require that the Company maintain certain financial ratios comparable to those required by its Amended Credit Agreement. Additionally, the leases typically contain provisions whereby the Company indemnifies the lessors for the tax treatment attributable to such leases based on the tax rules in place at lease inception. The tax indemnifications do not have a contractual dollar limit. To date, no lessors have asserted any claims against the Company under these tax indemnification provisions.

The exercise of lease renewal options is at the Company's sole discretion and is considered in the measurement of operating lease assets and operating lease liabilities when it is reasonably certain the Company will exercise the option. Certain leases also include options to purchase the leased property. The depreciable life of assets and leasehold improvements are limited by the expected lease term, unless there is a transfer of title or purchase option reasonably certain of exercise.

##### *Lease costs*

The Company's lease costs are recorded in costs of contract revenues and general and administrative expenses. For the years ended December 31, 2021, 2020 and 2019, respectively, lease costs are as follows:

	<u>2021</u>	<u>2020</u>	<u>2019</u>
Operating lease costs	\$ 24,427	\$ 24,602	\$ 27,259
Short-term lease costs	95,957	87,534	70,382
Total lease cost	<u>\$ 120,384</u>	<u>\$ 112,136</u>	<u>\$ 97,641</u>

##### *Lease terms and commitments*

As recorded on the balance sheet, the Company's maturity analysis of its operating lease liabilities as of December 31, 2021 is as follows:

2022	\$	18,982
2023		17,090
2024		14,320
2025		7,984
2026		4,664
Thereafter		6,181
Minimum lease payments		<u>69,221</u>
Imputed interest		6,506
Present value of minimum operating lease payments	<u>\$</u>	<u>62,715</u>

As most of the Company's leases do not provide an implicit rate, the Company used its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments.



Additional information related to the Company's leases as of December 31, 2021 and 2020, respectively, is as follows:

	2021	2020	2019
Weighted average remaining lease term	4.4 years	4.1 years	4.2 years
Weighted average discount rate	5.1%	6.2%	6.7%

Supplemental information related to leases during the year ended December 31, 2021 and 2020, respectively, is as follows:

	2021	2020	2019
Operating cash flows from operating leases	\$ (22,591)	\$ (25,064)	\$ (27,235)
Operating lease liabilities arising from obtaining new operating lease assets	\$ 24,191	\$ 22,746	\$ 13,149

## 5. ACCRUED EXPENSES

Accrued expenses at December 31, 2021 and 2020 were as follows:

	2021	2020
Payroll and employee benefits	\$ 13,533	\$ 21,675
Insurance	12,821	14,754
Other	6,427	8,530
Income and other taxes	2,941	2,164
Interest	1,460	3,285
Contract reserves	444	2,491
Total accrued expenses	<u>\$ 37,626</u>	<u>\$ 52,899</u>

## 6. LONG-TERM DEBT

Long-term debt at December 31, 2021 and 2020 were as follows:

	2021	2020
Revolving credit facility	\$ —	\$ —
2029 Notes	320,971	—
8% Notes	—	323,735
Total	<u>\$ 320,971</u>	<u>\$ 323,735</u>

### *Credit agreement*

On May 3, 2019, the Company, Great Lakes Dredge & Dock Company, LLC, NASDI Holdings, LLC, Great Lakes Dredge & Dock Environmental, Inc., Great Lakes Environmental & Infrastructure Solutions, LLC, Great Lakes U.S. Fleet Management, LLC, and Drews Services LLC (collectively, the "Credit Parties") entered into an amended and restated revolving credit and security agreement (as amended, supplemented or otherwise modified from time to time, the "Amended Credit Agreement") with certain financial institutions from time to time party thereto as lenders, PNC Bank, National Association, as Agent (the "Agent"), PNC Capital Markets, CIBC Bank USA, Suntrust Robinson Humphrey, Inc. and Bank of America, N.A., as Joint Lead Arrangers and Joint Bookrunners, and HSBC USA, N.A., as Documentation Agent. The Amended Credit Agreement amends and restates the prior Revolving Credit and Security Agreement dated as of December 30, 2016 (as amended, the "Prior Credit Agreement") by and among the financial institutions from time to time party thereto as lenders, the Agent and the Credit Parties party thereto, such that the terms and conditions of the Prior Credit Agreement have been subsumed and replaced in their entirety by the terms and conditions of the Amended Credit Agreement, including the amount available under the revolving credit facility. The Amended Credit Agreement matures on May 3, 2024. The terms of the Amended Credit Agreement are summarized below.

The Amended Credit Agreement provides for a senior secured revolving credit facility in an aggregate principal amount of up to \$200,000 of which the full amount is available for the issuance of standby letters of credit. The maximum borrowing capacity under the Amended Credit Agreement is determined by a formula and may fluctuate depending on the value of the collateral included in such formula at the time of determination. The Amended Credit Agreement also includes an increase option that will allow the Company to increase the senior secured revolving credit facility by an aggregate principal amount of up to \$100,000. This increase is

subject to lenders providing incremental commitments for such increase, the Credit Parties having adequate borrowing capacity and provided that no default or event of default exists both before and after giving effect to such incremental commitment increase.

The Amended Credit Agreement contains customary representations and affirmative and negative covenants, including a springing financial covenant that requires the Credit Parties to maintain a fixed charge coverage ratio (ratio of earnings before income taxes, depreciation and amortization, net interest expenses, non-cash charges and losses and certain other non-recurring charges, minus capital expenditures, income and franchise taxes, to net cash interest expense plus scheduled cash principal payments with respect to debt plus restricted payments paid in cash) of not less than 1.10 to 1.00. The Amended Credit Agreement also contains customary events of default (including non-payment of principal or interest on any material debt and breaches of covenants) as well as events of default relating to certain actions by the Company's surety bonding providers. The obligations of the Credit Parties under the Amended Credit Agreement will be unconditionally guaranteed, on a joint and several basis, by each existing and subsequently acquired or formed material direct and indirect domestic subsidiary of the Company. Borrowings under the Amended Credit Agreement will be used to pay fees and expenses related to the Amended Credit Agreement, finance acquisitions permitted under the Amended Credit Agreement, finance ongoing working capital and for other general corporate purposes.

The obligations under the Amended Credit Agreement are secured by substantially all of the assets of the Credit Parties. The outstanding obligations thereunder shall be secured by a valid first priority perfected lien on substantially all of the U.S. flagged and located vessels of the Credit Parties and a valid perfected lien on all domestic accounts receivable and substantially all other assets of the Credit Parties, subject to the permitted liens and interests of other parties (including the Company's surety bonding providers).

Interest on the senior secured revolving credit facility of the Amended Credit Agreement is equal to either a Domestic Rate option or LIBOR option, at the Company's election. As of the Closing Date, (a) the Domestic Rate option is the highest of (1) the base commercial lending rate of PNC Bank, National Association, as publicly announced, (2) the sum of the federal funds open rate plus 0.5% and (3) the sum of the daily LIBOR rate plus 1.0%, so long as a daily LIBOR rate is offered, ascertainable and not unlawful plus an interest margin of 0.5%; and (b) the LIBOR Rate option is the rate that applies for the applicable interest period on the Bloomberg page BBAMI (or such other substitute page or alternate source as agreed) plus an interest margin of 1.5%. After the date on which a borrowing base certificate is required to be delivered under Section 9.2 of the Amended Credit Agreement (commencing with the fiscal quarter ended September 30, 2019, the "Adjustment Date"), the Domestic Rate option will be the Domestic Rate plus an interest margin ranging between 0.5% and 1.0% and the LIBOR Rate option will be the LIBOR Rate plus an interest margin ranging between 1.5% and 2.0%, in each case, depending on the quarterly average undrawn availability on the Amended Credit Agreement.

The Company had no borrowings on the revolver, \$25,127 and \$36,407 of letters of credit outstanding and \$174,546 and \$163,231 of availability under the Amended Credit Agreement as of December 31, 2021 and 2020, respectively. The availability under the Amended Credit Agreement is suppressed by \$327 and \$362 as of December 31, 2021 and 2020, respectively, as a result of certain limitations set forth in the Amended Credit Agreement.

#### ***Senior notes and subsidiary guarantors***

In May 2021 the Company sold \$325,000 of unsecured 5.25% Senior Notes (the "2029 Notes") pursuant to a private offering. The 2029 Notes were priced to investors at par and will mature on June 1, 2029. The Company used the net proceeds from the offering, together with cash on hand, to redeem all \$325,000 aggregate principal amount of its outstanding 8.000% Senior Notes due 2022 (the "8% Notes"). Approximately \$1,000 of deferred financing fees related to the 8% Notes were extinguished and are presented within year-to-date net interest expense in the Statement of Operations.

The Company's obligations under these 2029 Notes are guaranteed by certain of the Company's 100% owned domestic subsidiaries. Such guarantees are full, unconditional and joint and several. The parent company issuer has no independent assets or operations and all non-guarantor subsidiaries have been determined to be minor.

## Other

The scheduled principal payments through the maturity date of the Company's long-term debt at December 31, 2021, are as follows:

Years Ending December 31,	
2022	\$ —
2023	—
2024	—
2025	—
2026	—
Thereafter	325,000
Total	<u>\$ 325,000</u>

The Company incurred amortization of deferred financing fees for its long-term debt of \$1,382, \$1,611 and \$2,231 for each of the years ended December 31, 2021, 2020 and 2019. Such amortization is recorded as a component of net interest expense.

## 7. FAIR VALUE MEASUREMENTS

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. A fair value hierarchy has been established by GAAP that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The accounting guidance describes three levels of inputs that may be used to measure fair value:

Level 1—Quoted prices in active markets for identical assets or liabilities.

Level 2—Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The Company utilizes the market approach to measure fair value for its financial assets and liabilities. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities. At times, the Company holds certain derivative contracts that it uses to manage foreign currency risk or commodity price risk. The Company does not hold or issue derivatives for speculative or trading purposes. The fair values of these financial instruments are summarized as follows:

Description	At December 31, 2021	Fair Value Measurements at Reporting Date Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Fuel hedge contracts	<u>\$ 630</u>	<u>\$ —</u>	<u>\$ 630</u>	<u>\$ —</u>

Description	At December 31, 2020	Fair Value Measurements at Reporting Date Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Fuel hedge contracts	<u>\$ 1,739</u>	<u>\$ —</u>	<u>\$ 1,739</u>	<u>\$ —</u>

### **Fuel hedge contracts**

The Company is exposed to certain market risks, primarily commodity price risk as it relates to the diesel fuel purchase requirements, which occur in the normal course of business. The Company enters into heating oil commodity swap contracts to hedge the risk that fluctuations in diesel fuel prices will have an adverse impact on cash flows associated with its domestic dredging contracts. The Company's goal is to hedge approximately 80% of the eligible fuel requirements for work in domestic backlog.

As of December 31, 2021, the Company was party to various swap arrangements to hedge the price of a portion of its diesel fuel purchase requirements for work in its backlog to be performed through December 2022. As of December 31, 2021, there were 10.2 million gallons remaining on these contracts which represent approximately 80% of the Company's forecasted domestic fuel purchases through December 2022. Under these swap agreements, the Company will pay fixed prices ranging from \$1.25 to \$2.46 per gallon.

At December 31, 2021 and 2020, the fair value asset of the fuel hedge contracts were estimated to be \$630 and \$1,739, respectively, and are recorded in other current assets. For fuel hedge contracts considered to be highly effective, the gains reclassified to earnings from changes in fair value of derivatives, net of cash settlements and taxes, for the year ended December 31, 2021 were \$6,481. The remaining gains and losses included in the accumulated other comprehensive income at December 31, 2021 will be reclassified into earnings over the next twelve months, corresponding to the period during which the hedged fuel is expected to be utilized. Changes in the fair value of fuel hedge contracts not considered highly effective are recorded as costs of contract revenues in the Statement of Operations. The fair value of fuel hedges are corroborated using inputs that are readily observable in public markets; therefore, the Company determines fair values of these fuel hedges using Level 2 inputs.

The Company is exposed to counterparty credit risk associated with non-performance of its various derivative instruments. The Company's risk would be limited to any unrealized gains on current positions. To help mitigate this risk, the Company transacts only with counterparties that are rated as investment grade or higher. In addition, all counterparties are monitored on a continuous basis.

The fair value of the fuel hedge contracts outstanding as of December 31, 2021 and 2020 is as follows:

	<u>Balance Sheet Location</u>	<u>Fair Value at December 31,</u>	
		<u>2021</u>	<u>2020</u>
Asset derivatives:			
Derivatives designated as hedging instruments			
Fuel hedge contracts	Other current assets	\$ 630	\$ 1,739

### **Assets and liabilities measured at fair value on a nonrecurring basis**

All other nonfinancial assets and liabilities measured at fair value in the financial statements on a nonrecurring basis are subject to fair value measurements and disclosures. Nonfinancial assets and liabilities included in the consolidated balance sheets and measured on a nonrecurring basis consist of goodwill and long-lived assets. Goodwill and long-lived assets are measured at fair value to test for and measure impairment, if any, at least annually for goodwill or when necessary for both goodwill and long-lived assets.

### **Accumulated other comprehensive income (loss)**

Changes in the components of the accumulated balances of other comprehensive income (loss) are as follows:

	<u>2021</u>	<u>2020</u>	<u>2019</u>
Cumulative translation adjustments—net of tax	\$ —	\$ —	\$ —
Derivatives:			
Reclassification of derivative (gains) losses to earnings—net of tax	(6,481)	5,825	1,458
Change in fair value of derivatives—net of tax	5,653	(5,152)	2,646
Net unrealized (gain) loss on derivatives—net of tax	(828)	673	4,104
Total other comprehensive income (loss)	<u>\$ (828)</u>	<u>\$ 673</u>	<u>\$ 4,104</u>

Adjustments reclassified from accumulated balances of other comprehensive income (loss) to earnings are as follows:

	<u>Statement of Operations Location</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>
<b>Derivatives:</b>				
Fuel hedge contracts	Costs of contract revenues	\$ (8,670)	\$ 7,703	\$ 1,975
	Income tax (provision) benefit	(2,189)	1,878	517
		<u>\$ (6,481)</u>	<u>\$ 5,825</u>	<u>\$ 1,458</u>

#### **Other financial instruments**

The carrying value of financial instruments included in current assets and current liabilities approximates fair value due to the short-term maturities of these instruments. Based on timing of the cash flows and comparison to current market interest rates, the carrying value of the senior revolving credit agreement approximates fair value. In May 2021, the Company sold \$325,000 of the 2029 Notes pursuant to a private offering, which were outstanding at December 31, 2021 (See Note 6, Long-Term Debt). The 2029 Notes were priced to investors at par and will mature on June 1, 2029. The 2029 Notes are senior unsecured obligations of the Company and its subsidiaries that guarantee the 2029 Notes. The fair value of the 2029 Notes was \$334,750 at December 31, 2021, which is a Level 1 fair value measurement as the senior notes value was obtained using quoted prices in active markets. It is impracticable to determine the fair value of outstanding letters of credit or performance, bid and payment bonds due to uncertainties as to the amount and timing of future obligations, if any.

## **8. INCOME TAXES**

The Company's income tax provision (benefit) from continuing and discontinued operations for the years ended December 31, 2021, 2020 and 2019 are as follows:

	<u>2021</u>	<u>2020</u>	<u>2019</u>
Income tax provision from continuing operations	\$ 13,391	\$ 20,187	\$ 15,253
Income tax benefit from discontinued operations	—	—	(4,556)
Income tax provision	<u>\$ 13,391</u>	<u>\$ 20,187</u>	<u>\$ 10,697</u>

The Company's income (loss) from continuing operations before income tax from domestic and foreign continuing operations for the years ended December 31, 2021, 2020 and 2019 is as follows:

	<u>2021</u>	<u>2020</u>	<u>2019</u>
Domestic operations	\$ 65,708	94,826	\$ 89,344
Foreign operations	(2,885)	(8,536)	(18,423)
Total income from continuing operations before income tax	<u>\$ 62,823</u>	<u>\$ 86,290</u>	<u>\$ 70,921</u>

The provision for income taxes from continuing operations as of December 31, 2021, 2020 and 2019 is as follows:

	<u>2021</u>	<u>2020</u>	<u>2019</u>
<b>Federal:</b>			
Current	\$ —	\$ —	\$ —
Deferred	11,020	17,464	14,052
<b>State:</b>			
Current	1,080	128	212
Deferred	1,291	3,023	989
<b>Foreign:</b>			
Current	—	(428)	—
Deferred	—	—	—
Total	<u>\$ 13,391</u>	<u>\$ 20,187</u>	<u>\$ 15,253</u>

The Company's income tax provision from continuing operations reconciles to the provision at the statutory U.S. federal income tax rate of 21% for the years ended December 31, 2021, 2020 and 2019, as follows:

	2021	2020	2019
Tax provision at statutory U.S. federal income tax rate	\$ 13,193	\$ 18,121	\$ 14,893
State income tax — net of federal income tax benefit	2,144	3,124	3,049
Adjustment to deferred tax depreciation	(1,414)	—	—
Change in deferred state tax rate	—	—	(1,835)
Stock based compensation	(1,318)	(1,212)	(1,266)
Nondeductible officer compensation	1,195	1,212	1,021
Research and development tax credits	(642)	(674)	(452)
Changes in unrecognized tax benefits	—	—	(56)
Changes in valuation allowance	—	—	(3)
Other	233	(384)	(98)
Income tax provision	<u>\$ 13,391</u>	<u>\$ 20,187</u>	<u>\$ 15,253</u>

At December 31, 2021 and 2020, the Company had loss carryforwards for federal income tax purposes of \$55,554 and \$92,328 respectively, which expire in 2037.

At December 31, 2021 and 2020, the Company had gross net operating loss carryforwards for state income tax purposes totaling \$157,245 and \$170,738, respectively, which expire between 2023 and 2039. The Company has established a valuation allowance that was \$1,623 and \$1,628 as of December 31, 2021 and 2020, respectively. The Company believes that the remaining net operating losses, net of the valuation allowance, will be fully utilized in future periods.

The Company also has foreign gross net operating loss carryforwards of approximately \$2,469 and \$2,414 as of December 31, 2021 and 2020, of which expire between 2022 and 2028. At December 31, 2021 and 2020, a full valuation allowance has been established for the deferred tax asset of \$864 and \$845 related to foreign net operating loss carryforwards, respectively, as the Company believes it is more likely than not that the net operating loss carryforwards will not be realized.

The Company does not expect that total unrecognized tax benefits will significantly increase or decrease within the next 12 months. Below is a tabular reconciliation of the total amounts of unrecognized tax benefits at the beginning and end of each period.

	2021	2020	2019
Unrecognized tax benefits — January 1	\$ —	\$ —	\$ 157
Gross increases — tax positions in prior period	—	—	—
Gross increases — current period tax positions	—	—	—
Gross decreases — expirations	—	—	—
Gross decreases — tax positions in prior period	—	—	(157)
Unrecognized tax benefits — December 31,	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>

The Company's policy is to recognize interest and penalties related to income tax matters in income tax expense. As of December 31, 2021, 2020 and 2019 the Company had no interest and penalties recorded.

The Company files income tax returns at the U.S. federal level and in various state and foreign jurisdictions. U.S. federal income tax years prior to 2018 are closed and no longer subject to examination. With few exceptions, the statute of limitations in state taxing jurisdictions in which the Company operates has expired for all years prior to 2017. In foreign jurisdictions in which the Company operates, years prior to 2016 are closed and are no longer subject to examination.

The Company's deferred tax assets (liabilities) at December 31, 2021 and 2020 are as follows:

	<u>2021</u>	<u>2020</u>
Deferred tax assets:		
Operating lease assets	\$ 15,835	\$ 16,501
Accrued liabilities	7,130	8,212
Federal NOLs	11,666	19,389
Foreign NOLs	864	845
State NOLs	6,682	7,256
Tax credit carryforwards	3,892	3,250
Valuation allowance	<u>(2,487)</u>	<u>(2,473)</u>
Total deferred tax assets	<u>43,582</u>	<u>52,980</u>
Deferred tax liabilities:		
Depreciation and amortization	(96,207)	(92,547)
Operating lease liabilities	(15,713)	(16,460)
Other liabilities	<u>(159)</u>	<u>(439)</u>
Total deferred tax liabilities	<u>(112,079)</u>	<u>(109,446)</u>
Net noncurrent deferred tax liabilities	<u>\$ (68,497)</u>	<u>\$ (56,466)</u>

Deferred tax assets relate primarily to reserves and other liabilities for costs and expenses not currently deductible for tax purposes as well as net operating loss and other carryforwards. Deferred tax liabilities relate primarily to the cumulative difference between book depreciation and amounts deducted for tax purposes. The Company evaluates its ability to realize deferred tax assets by considering all available positive and negative evidence. This evidence includes its cumulative earnings or losses in recent years. The Company further considers the impact on these cumulative earnings or losses of discontinued operations and other divested operations and joint ventures, restructuring charges and other nonrecurring adjustments that are not indicative of its ability to generate taxable income in future periods. The Company also considers sources of taxable income, such as the amount and timing of realization of its deferred tax liabilities relative to the timing of expiration of loss carryforwards. When it is estimated to be more likely than not that all or some portion of deferred tax assets will not be realized, the Company establishes a valuation allowance for the amount of such deferred tax assets considered to be unrealizable. After evaluating the positive and negative evidence for future realization of deferred tax assets, the Company recorded valuation allowances for foreign net operating loss carryforwards and certain state net operating loss carryforwards to reduce the balance of these deferred tax assets at December 31, 2021 and 2020 as it was more likely than not that the balance of these tax items would not be realized. By contrast, after evaluating the positive and negative evidence, the Company concluded that it was more likely than not that the deferred federal income tax asset and remaining state net operating loss carryforwards recorded at December 31, 2021 and 2020 would ultimately be realized and determined that no valuation allowance was required.

## 9. SHARE-BASED COMPENSATION

On May 5, 2021, the Company's stockholders approved the Great Lakes Dredge & Dock Corporation 2021 Long-Term Incentive Plan (the "Incentive Plan"), which previously had been approved by the Company's board of directors subject to stockholder approval. The Incentive Plan replaces the 2017 Long-Term Incentive Plan (the "Prior Plan") and is largely based on the Prior Plan, but with updates to the available shares and other administrative changes. The Incentive Plan permits the granting of stock options, stock appreciation rights, restricted stock and restricted stock units to the Company's employees and directors for up to 1.5 million shares of common stock, plus the number of shares that remained available for future grant under the Prior Plan as of the effectiveness of the Incentive Plan.

The Prior Plan permitted the granting of stock options, stock appreciation rights, restricted stock and restricted stock units to its employees and directors for up to 3.3 million shares of common stock, plus an additional 1.7 million shares underlying equity awards issued under the 2007 Long-Term Incentive Plan. The Company may also issue share-based compensation as inducement awards to new employees upon approval of the Board of Directors.

Compensation cost charged to expense related to share-based compensation arrangements was \$5,188, \$6,754 and \$6,908, for the years ended December 31, 2021, 2020 and 2019, respectively.

### Non-qualified stock options

The NQSO awards were granted with an exercise price equal to the market price of the Company's common stock at the date of grant. The option awards generally vest in three equal annual installments commencing on the first anniversary of the grant date, and have ten year exercise periods.

The fair value of the NQSOs was determined at the grant date using a Black-Scholes option pricing model, which requires the Company to make several assumptions. The risk-free interest rate is based on the U.S. Treasury yield curve in effect for the expected term of the option at the time of grant. The annual dividend yield on the Company's common stock is based on estimates of future dividends during the expected term of the NQSOs. The expected life of the NQSOs was determined from historical exercise data providing a reasonable basis upon which to estimate the expected life. The volatility assumptions were based on historical volatility of Great Lakes. There is not an active market for options on the Company's common stock and, as such, implied volatility for the Company's stock was not considered. Additionally, the Company's general policy is to issue new shares of registered common stock to satisfy stock option exercises or grants of restricted stock. No NQSO awards were granted in 2021, 2020 and 2019. The aggregate intrinsic value of stock options represents the difference between market value on the date of exercise and the option price. The aggregate intrinsic value of stock options exercised during 2021, 2020 and 2019 was \$1,351, \$779 and \$2,534, respectively.

A summary of stock option activity under the Incentive Plan as of December 31, 2021, and changes during the year ended December 31, 2021, is presented below:

Options	Shares	Weighted Average Exercise Price	Weighted-Average Remaining Contract Term (yrs)	Aggregate Intrinsic Value (\$000's)
Outstanding as of January 1, 2021	278	\$ 7.02		
Granted	—	—		
Exercised	(173)	6.73		
Forfeited or Expired	—	—		
Outstanding as of December 31, 2021	105	\$ 7.50	1.9	\$ 860
Vested at December 31, 2021	105	\$ 7.50	1.9	\$ 860

### Restricted stock units

RSUs primarily vest in equal portions over the three year vesting period. The fair value of RSUs was based upon the Company's stock price on the date of grant. A summary of the status of the Company's non-vested RSUs as of December 31, 2021, and changes during the year ended December 31, 2021, is presented below:

Nonvested Restricted Stock Units	Shares	Weighted-Average Grant-Date Fair Value
Outstanding as of January 1, 2021	1,407	\$ 8.00
Granted	327	14.66
Vested	(653)	7.00
Forfeited	(34)	7.69
Outstanding as of December 31, 2021	1,047	\$ 10.57
Expected to vest at December 31, 2021	846	\$ 10.55

As of December 31, 2021, there was \$3,959 of total unrecognized compensation cost related to non-vested RSUs granted under the Incentive Plan. That cost for non-vested RSUs is expected to be recognized over a weighted-average period of 1.8 years.

The Incentive Plan permits the employee to use vested shares from RSUs to satisfy the grantee's U.S. federal income tax liability resulting from the issuance of the shares through the Company's retention of that number of common shares having a market value as of the vesting date equal to such tax obligation up to the minimum statutory withholding requirements. The amount related to shares used for such tax withholding obligations was approximately \$4,250 and \$4,748 for the years ended December 31, 2021 and 2020, respectively.



### ***Director compensation***

The Company uses a combination of cash and share-based compensation to attract and retain qualified candidates to serve on its Board of Directors. Compensation is paid to non-employee directors. Directors who are employees receive no additional compensation for services as members of the Board or any of its committees. Share-based compensation is paid pursuant to the Incentive Plan. Each non-employee director of the Company receives an annual retainer of \$155, payable quarterly in arrears, and is generally paid 50% in cash and 50% in common stock or deferred restricted stock units of the Company. Directors may elect to receive some or all of the cash retainer in common stock or deferred restricted stock units. In 2021, the Chairman of the Board received an additional \$100 of annual compensation, paid 100% in common stock.

In the years ended December 31, 2021, 2020 and 2019, 50 thousand, 79 thousand and 78 thousand shares, respectively, of the Company's common stock or restricted stock units were issued to non-employee directors under the Incentive Plan.

## **10. REVENUE**

The Company's revenue is derived from contracts for services with federal, state, local and foreign governmental entities and private customers. Revenues are generally derived from the enhancement or preservation of navigability of waterways or the protection of shorelines through the removal or replenishment of soil, sand or rock.

### ***Performance obligations***

A performance obligation is a promise in a contract to transfer a distinct good or service to the customer, and is the unit of account upon which the Company's revenue is calculated. A contract's transaction price is allocated to each distinct performance obligation and recognized as revenue as the performance obligation is satisfied. Fixed-price contracts, which comprise substantially all of the Company's revenue, will most often represent a single performance obligation as the promise to transfer the individual services is not separately identifiable from other promises in the contracts and, therefore, not distinct.

The Company's performance obligations are satisfied over time and revenue is recognized using contract fulfillment costs incurred to date compared to total estimated costs at completion, also known as cost-to-cost, to measure progress towards completion. As the Company's performance creates an asset that the customer controls, this method provides a faithful depiction of the transfer of an asset to the customer. Generally, the Company has an enforceable right to payment for performance completed to date.

The majority of the Company's contracts are completed in a year or less. At December 31, 2021, the Company had \$551,588 of remaining performance obligations, which the Company refers to as total backlog. Approximately 88% of the Company's backlog will be completed in 2022 with the remaining balance expected to be completed by 2023.

### ***Transaction price***

The transaction price is calculated using the Company's estimated costs to complete a project. These costs are based on the types of equipment required to perform the specified service, project site conditions, the estimated project duration, seasonality, location and complexity of a project.

The nature of the Company's contracts gives rise to several types of variable consideration, including pay on quantity dredged for dredging projects and dredging project contract modifications. Estimated pay quantity is the amount of material the Company expects to dredge for which it will receive payment. Estimated quantity to be dredged is calculated using engineering estimates based on current survey data and the Company's knowledge based on historical project experience.

### ***Revenue by category***

Domestically, the Company's work generally is performed in coastal waterways and deep-water ports. The U.S. dredging market consists of four primary types of work: capital, coastal protection, maintenance and rivers & lakes. Foreign projects typically involve capital work.

The following table sets forth, by type of work, the Company's contract revenues for the years ended December 31, 2021, 2020 and 2019:

<b>Revenues</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
Capital—U.S.	\$ 397,034	\$ 336,163	\$ 299,706
Capital—foreign	6,596	25,892	48,619
Coastal protection	169,678	201,361	182,369
Maintenance	132,551	148,767	104,753
Rivers & lakes	20,290	21,418	76,071
Total revenues	<u>\$ 726,149</u>	<u>\$ 733,601</u>	<u>\$ 711,518</u>

The following table sets forth, by type of customer, the Company's contract revenues for the years ended December 31, 2021, 2020 and 2019:

<b>Revenues</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
Federal government	\$ 568,980	\$ 582,949	\$ 581,157
State and local government	118,712	85,737	71,398
Private	31,861	39,023	10,344
Foreign	6,596	25,892	48,619
Total revenues	<u>\$ 726,149</u>	<u>\$ 733,601</u>	<u>\$ 711,518</u>

### **Contract balances**

Billings on contracts are generally submitted after verification with the customers of physical progress and are recognized as accounts receivable in the balance sheet. For billings that do not match the timing of revenue recognition, the difference between amounts billed and recognized as revenue is reflected in the balance sheet as either contract revenues in excess of billings or billings in excess of contract revenues. Certain pre-contract and pre-construction costs are capitalized and reflected as contract assets in the balance sheet. Customer advances, deposits and commissions are reflected in the balance sheet as contract liabilities.

Accounts receivable at December 31, 2021 and December 31, 2020 are as follows:

	<b>2021</b>	<b>2020</b>
Completed contracts	\$ 10,612	\$ 12,347
Contracts in progress	65,415	21,239
Retainage	7,490	5,968
	83,517	39,554
Allowance for doubtful accounts	(564)	(564)
Total accounts receivable—net	<u>\$ 82,953</u>	<u>\$ 38,990</u>

The components of contracts in progress at December 31, 2021 and December 31, 2020 are as follows:

	2021	2020
Costs and earnings in excess of billings:		
Costs and earnings for contracts in progress	\$ 270,998	\$ 199,964
Amounts billed	(240,941)	(168,569)
Costs and earnings in excess of billings for contracts in progress	30,057	31,395
Costs and earnings in excess of billings for completed contracts	10,894	2,823
Total contract revenues in excess of billings	<u>\$ 40,951</u>	<u>\$ 34,218</u>
Current portion of contract revenues in excess of billings	\$ 39,844	\$ 32,106
Long-term contract revenues in excess of billings	1,107	2,112
Total contract revenues in excess of billings	<u>\$ 40,951</u>	<u>\$ 34,218</u>
Billings in excess of costs and earnings:		
Amounts billed	\$ (224,381)	\$ (550,468)
Costs and earnings for contracts in progress	209,567	517,860
Total billings in excess of contract revenues	<u>\$ (14,814)</u>	<u>\$ (32,608)</u>

At December 31, 2021 and 2020, costs to fulfill contracts with customers recognized as an asset were \$5,652 and \$10,501, respectively, and are recorded in other current assets and other noncurrent assets. These costs relate to pre-contract and pre-construction activities. During the years ended December 31, 2021 and 2020 the company amortized pre-contract and pre-construction costs of \$17,839 and \$15,541, respectively.

The Company's largest domestic customer is the U.S. Army Corps of Engineers (the "Corps"), which has responsibility for federally funded projects related to navigation and flood control of U.S. waterways. In 2021, 2020 and 2019, 78.4%, 79.5% and 81.7%, respectively, of contract revenues were earned from contracts with federal government agencies, including the Corps, as well as other federal entities such as the U.S. Coast Guard and U.S. Navy. During the year ended December 31, 2021 and 2020, respectively, the Company recognized \$716 and \$616 of revenue related to the use of equipment by a customer working on a federal government contract. At December 31, 2021 and 2020, approximately 68.5% and 42.6% respectively, of accounts receivable, including contract revenues in excess of billings and retainage, were due on contracts with federal government agencies. The Company depends on its ability to continue to obtain federal government contracts, and indirectly, on the amount of federal funding for new and current government dredging projects. Therefore, the Company's operations can be influenced by the level and timing of federal funding.

The Company derived revenues and gross profit (loss) from foreign project operations for the years ended December 31, 2021, 2020, and 2019, as follows:

	2021	2020	2019
Contract revenues	\$ 6,596	\$ 25,892	\$ 48,619
Costs of contract revenues	(9,281)	(34,529)	(66,347)
Gross profit (loss)	<u>\$ (2,685)</u>	<u>\$ (8,637)</u>	<u>\$ (17,728)</u>

In 2021, 2020 and 2019, foreign revenues were primarily from work done in the Middle East. The majority of the Company's long-lived assets are marine vessels and related equipment. At any point in time, the Company may employ certain assets outside of the U.S., as needed, to perform work on the Company's foreign projects. As of December 31, 2021, long-lived assets located outside of the U.S had no net book value compared to \$5,225 at December 31, 2020. Currently our assets outside of the U.S. do not include dredges. Revenue from foreign projects has been concentrated in the Middle East which comprised less than 10% in 2021, 2020 and 2019. At December 31, 2021 and 2020, approximately 9% and 12%, respectively, of total accounts receivable, including retainage and contract revenues in excess of billings, were due on contracts in the Middle East.

## 11. RETIREMENT PLANS

The Company sponsors two 401(k) savings plans, one covering substantially all non-union salaried employees (“Salaried Plan”), a second covering its hourly employees (“Hourly Plan”). Under the Salaried Plan and the Hourly Plan, individual employees may contribute a percentage of compensation and the Company will match a portion of the employees’ contributions. The Salaried Plan also includes a discretionary profit-sharing component, permitting the Company to make discretionary employer contributions to all eligible employees of these plans. Additionally, the Company sponsors a Supplemental Savings Plan in which the Company makes contributions for certain key executives. The Company’s expense for matching, discretionary and Supplemental Savings Plan contributions for 2021, 2020 and 2019, was \$4,659, \$5,557 and \$5,168, respectively.

The Company also contributes to various multiemployer pension plans pursuant to collective bargaining agreements. In 2021, 2020 and 2019, the Company contributed \$4,632, \$4,929 and \$4,517 respectively to all of the multiemployer plans that provide pension benefits in its continuing operations. The information available to the Company about the multiemployer plans in which it participates, whether via request to the plan or publicly available, is generally dated due to the nature of the reporting cycle of multiemployer plans and legal requirements under the Employee Retirement Income Security Act (“ERISA”) as amended by the Multiemployer Pension Plan Amendments Act (“MPPAA”). Based upon these plans’ most recently available annual reports, the Company’s contributions to these plans were less than 5% of each plan’s total contributions.

The Company does not expect any future increased contributions to have a material negative impact on its financial position, results of operations or cash flows for future years. The risks of participating in multiemployer plans are different from single employer plans as assets contributed are available to provide benefits to employees of other employers and unfunded obligations from an employer that discontinues contributions are the responsibility of all remaining employers. In addition, in the event of a plan’s termination or the Company’s withdrawal from a plan, the Company may be liable for a portion of the plan’s unfunded vested benefits. However, information from the plans’ administrators is not available to permit the Company to determine its share, if any, of unfunded vested benefits.

## 12. COMMITMENTS AND CONTINGENCIES

### *Commercial commitments*

Performance and bid bonds are customarily required for dredging and marine construction projects. The Company has bonding agreements with Argonaut Insurance Company, Berkley Insurance Company, Chubb Surety and Liberty Mutual Insurance Company under which the Company can obtain performance, bid and payment bonds. The Company also has outstanding bonds with Travelers Casualty and Surety Company of America and Zurich American Insurance Company (“Zurich”). Bid bonds are generally obtained for a percentage of bid value and amounts outstanding typically range from \$1,000 to \$10,000. At December 31, 2021, the Company had outstanding performance bonds with a notional amount of approximately \$1,164,822. The revenue value remaining in backlog related to the projects of continuing operations totaled approximately \$551,588.

Certain foreign projects performed by the Company have warranty periods, typically spanning no more than one to three years beyond project completion, whereby the Company retains responsibility to maintain the project site to certain specifications during the warranty period. Generally, any potential liability of the Company is mitigated by insurance, shared responsibilities with consortium partners, and/or recourse to owner-provided specifications.

### *Legal proceedings and other contingencies*

As is customary with negotiated contracts and modifications or claims to competitively bid contracts with the federal government, the government has the right to audit the books and records of the Company to ensure compliance with such contracts, modifications, or claims, and the applicable federal laws. The government has the ability to seek a price adjustment based on the results of such audit. Any such audits have not had, and are not expected to have, a material impact on the financial position, operations, or cash flows of the Company.

Various legal actions, claims, assessments and other contingencies arising in the ordinary course of business are pending against the Company and certain of its subsidiaries. The Company will defend itself vigorously on all matters. These matters are subject to many uncertainties, and it is possible that some of these matters could ultimately be decided, resolved, or settled adversely to the Company. Although the Company is subject to various claims and legal actions that arise in the ordinary course of business, except as described below, the Company is not currently a party to any material legal proceedings or environmental claims. The Company records an accrual when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. The Company does not believe any of these proceedings, individually or in the aggregate, would be expected to have a material effect on results of operations, cash flows or financial condition.

On April 23, 2014, the Company completed the sale of NASDI, LLC (“NASDI”) and Yankee Environmental Services, LLC (“Yankee”), which together comprised the Company’s historical demolition business, to a privately-owned demolition company. On January 14, 2015, the Company and its subsidiary, NASDI Holdings, LLC, brought an action in the Delaware Court of Chancery to enforce the terms of the Company’s agreement to sell NASDI and Yankee. Under the terms of the agreement, the Company received cash of \$5,309 and retained the right to receive additional proceeds based upon future collections of outstanding accounts receivable and work in process existing at the date of close. The Company seeks specific performance of the buyer’s obligation to collect and to remit the additional proceeds, and other related relief. Defendants have filed counterclaims alleging that the Company misrepresented the quality of its contracts and receivables prior to the sale. The Company denies defendants’ allegations. In addition, the Company has been granted a judgment in the amount of \$21,934 based upon the buyer’s default of its obligations to indemnify the Company for losses resulting from failure to perform in accordance with terms of surety performance bond. The defendants filed a notice of appeal from that judgement. The Company continues to aggressively pursue collection from the buyer on outstanding amounts owed under the sale and the indemnification. An estimate of a range of potential gains or losses relating to these matters cannot reasonably be made.

On April 22, 2021, the U.S. Attorney’s Office for the Eastern District of Louisiana filed a bill of information against the Company charging the Company with a negligent discharge violation of the Clean Water Act arising from a September 2016 oil spill. The spill occurred during the Company’s Cheniere Ronquille project and resulted in the discharge of around one hundred sixty barrels of crude oil in Bay Long, Louisiana. The Company has cooperated with the U.S. Attorney’s Office and other relevant agencies in their investigation of the oil spill and on June 15, 2021, the Company pleaded guilty to the misdemeanor violation alleged in the bill of information and agreed to pay a fine of \$1,000. In the first quarter of 2022, the Company entered into a settlement of a civil suit arising from the same matter. The Company remains subject to potential liability for restitution in connection with this criminal matter, and has deposited the potential liability for the criminal matter of \$2,000 into the registry of the court. That amount is presented as restricted cash in other noncurrent assets. As a result of the pending conviction, the government will likely initiate statutory debarment proceedings against the Company, which might prohibit the Company from bidding for, entering into or completing certain government projects. Although the Company does not know whether debarment proceedings will result in prohibitions, or the impact of any such resulting prohibitions, the Company does not expect any such proceedings or prohibitions to cause a material disruption to its business, financial condition or results of operations.

On September 27, 2019, the EPA Region 4 filed an administrative complaint against the Company relating to a project the Company performed at PortMiami from 2013-2015 alleging violations of Section 103 of the Marine Protection, Research, and Sanctuaries Act (“MPRSA”) and failure to report violations of the MPRSA. In July 2021, the parties executed a consent agreement and the Company paid \$500 as a civil penalty in August 2021.

### 13. BUSINESS DISPOSITIONS

#### *Discontinued operations*

During the second quarter of 2019, the Company completed the sale of the historical environmental & infrastructure business. Under the terms of the agreement, the Company received cash of \$17,500 in the second quarter of 2019 and received an additional \$857 in the third quarter of 2019.

The results of the business have been reported in discontinued operations as follows:

	2019
Revenue	\$ 25,040
Loss before income taxes from discontinued operations	\$ (8,253)
Loss on disposal of assets held for sale	(2,632)
Income tax benefit	4,556
Loss from discontinued operations, net of income taxes	<u>\$ (6,329)</u>

Great Lakes Dredge & Dock Corporation  
Schedule II—Valuation and Qualifying Accounts  
For the Years Ended December 31, 2021, 2020 and 2019  
(In thousands)

Description	<u>Beginning Balance</u>	<u>Additions</u>	<u>Deductions</u>	<u>Ending balance</u>
<b>Year ended December 31, 2019</b>				
Allowances deducted from assets to which they apply:				
Allowances for doubtful accounts	\$ 200	\$ 364	\$ —	\$ 564
Valuation allowance for deferred tax assets	4,786	—	(1,291)	3,495
<b>Total</b>	<u>\$ 4,986</u>	<u>\$ 364</u>	<u>\$ (1,291)</u>	<u>\$ 4,059</u>
<b>Year ended December 31, 2020</b>				
Allowances deducted from assets to which they apply:				
Allowances for doubtful accounts	\$ 564	\$ —	\$ —	\$ 564
Valuation allowance for deferred tax assets	3,495	—	(1,022)	2,473
<b>Total</b>	<u>\$ 4,059</u>	<u>\$ —</u>	<u>\$ (1,022)</u>	<u>\$ 3,037</u>
<b>Year ended December 31, 2021</b>				
Allowances deducted from assets to which they apply:				
Allowances for doubtful accounts	\$ 564	\$ —	\$ —	\$ 564
Valuation allowance for deferred tax assets	2,473	14	—	2,487
<b>Total</b>	<u>\$ 3,037</u>	<u>\$ 14</u>	<u>\$ —</u>	<u>\$ 3,051</u>

## I. EXHIBIT INDEX

<b>Number</b>	<b>Document Description</b>
<a href="#">2.1</a>	<a href="#">Amended and Restated Agreement and Plan of Merger dated as of December 22, 2003, among Great Lakes Dredge &amp; Dock Corporation, GLDD Acquisitions Corp., GLDD Merger Sub, Inc. and Vectura Holding Company LLC. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on January 6, 2004).</a>
<a href="#">2.2</a>	<a href="#">Agreement and Plan of Merger by and among GLDD Acquisitions Corp., Aldabra Acquisition Corporation, and certain shareholders of Aldabra Acquisition Corporation and GLDD Acquisitions Corp., dated as of June 20, 2006. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on June 22, 2006).</a>
<a href="#">3.1</a>	<a href="#">Amended and Restated Certificate of Incorporation of Great Lakes Dredge &amp; Dock Holdings Corp., effective December 26, 2006 (now renamed Great Lakes Dredge &amp; Dock Corporation). (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Registration Statement on Form 8-A12B filed with the Commission on December 26, 2006).</a>
<a href="#">3.2</a>	<a href="#">Amended and Restated Bylaws of Great Lakes Dredge &amp; Dock Corporation, dated as of May 14, 2015. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 20, 2015).</a>
<a href="#">3.3</a>	<a href="#">Certificate of Ownership and Merger of Great Lakes Dredge &amp; Dock Corporation with and into Great Lakes Dredge &amp; Dock Holdings Corp. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on December 29, 2006).</a>
<a href="#">4.1</a>	<a href="#">Description of Great Lakes Dredge &amp; Dock Corporation Securities Registered Pursuant to Section 12 of the Exchange Act. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on February 26, 2020).</a>
<a href="#">4.2</a>	<a href="#">Specimen Common Stock Certificate for Great Lakes Dredge &amp; Dock Corporation. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on March 22, 2007).</a>
<a href="#">4.3</a>	<a href="#">Indenture, dated May 25, 2021, among Great Lakes Dredge &amp; Dock Corporation, as Issuer, the guarantors party thereto, and Wells Fargo Bank, National Association, as Trustee, relating to the 2029 Notes (incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 3, 2021).</a>
<a href="#">4.4</a>	<a href="#">Form of 2029 Notes (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 3, 2021).</a>
<a href="#">10.1</a>	<a href="#">Agreement of Indemnity, dated as of April 7, 2015, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Great Lakes Environmental &amp; Infrastructure Solutions, LLC, Magnus Pacific, LLC, Terra Contracting, LLC, Terra Fluid Management, LLC and Liberty Mutual Insurance Company and its subsidiaries and affiliates. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 6, 2015).</a>
<a href="#">10.2</a>	<a href="#">Agreement of Indemnity, dated as of April 13, 2015, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Great Lakes Environmental &amp; Infrastructure Solutions, LLC, Magnus Pacific, LLC, Terra Contracting, LLC, Terra Fluid Management, LLC and Berkley Insurance Company and/or Berkley Regional Insurance Company. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 6, 2015).</a>
<a href="#">10.3</a>	<a href="#">Agreement of Indemnity, dated as of April 7, 2015, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Great Lakes Environmental &amp; Infrastructure Solutions, LLC, Magnus Pacific, LLC, Terra Contracting, LLC, Terra Fluid Management, LLC and Argonaut Insurance Company. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 6, 2015).</a>

Number	Document Description
10.4	<a href="#"><u>Agreement of Indemnity, dated as of April 7, 2015, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Great Lakes Environmental &amp; Infrastructure Solutions, LLC, Magnus Pacific, LLC, Terra Contracting, LLC, Terra Fluid Management, LLC and Westchester Fire Insurance Company or any of its affiliates, including any other company that is part of or added to ACE Holdings, Inc. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 6, 2015).</u></a>
10.5	<a href="#"><u>Amended and Restated Management Equity Agreement dated December 26, 2006 by and among Aldabra Acquisition Corporation, Great Lakes Dredge &amp; Dock Holdings Corp. and each of the other persons identified on the signature pages thereto. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on December 29, 2006).</u></a> †
10.6	<a href="#"><u>Amended and Restated Employment Agreement between Great Lakes Dredge &amp; Dock Corporation and David E. Simonelli, dated as of May 8, 2014. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 4, 2015).</u></a> †
10.7	<a href="#"><u>Employment Agreement between Great Lakes Dredge &amp; Dock Corporation and Lasse Petterson, dated as of April 28, 2017. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 1, 2017).</u></a> †
10.8	<a href="#"><u>Separation Agreement, dated October 7, 2021, between Great Lakes Dredge &amp; Dock Corporation and Mark W. Marinko (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on November 2, 2021).</u></a> †
10.9	<a href="#"><u>Employment Agreement between Great Lakes Dredge &amp; Dock Corporation and Scott Kornblau, dated as of September 29, 2021. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on September 29, 2021).</u></a> †
10.10	<a href="#"><u>Employment Agreement between Great Lakes Dredge &amp; Dock Corporation and Vivienne Schiffer, dated as of October 1, 2020.</u></a> †*
10.11	<a href="#"><u>Employment Agreement between Great Lakes Dredge &amp; Dock Corporation and James Tastard, dated as of October 1, 2020 (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 4, 2021).</u></a> †
10.12	<a href="#"><u>Mutual Agreement on Transition and General Release between Great Lakes Dredge &amp; Dock Corporation and Annette W. Cyr, dated as of September 13, 2020 (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 4, 2021).</u></a> †
10.13	<a href="#"><u>Second Amended and Restated Great Lakes Dredge &amp; Dock Company, LLC Annual Bonus Plan effective as of January 1, 2012 (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on January 17, 2012).</u></a> †
10.14	<a href="#"><u>401 (k) Savings Plan. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on March 30, 2005).</u></a> †
10.15	<a href="#"><u>Amended and Restated Great Lakes Dredge &amp; Dock Corporation Supplemental Savings Plan effective January 1, 2014. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on March 11, 2014).</u></a> †
10.16	<a href="#"><u>Form of Investor Rights Agreement among Aldabra Acquisition Corporation, Great Lakes Dredge &amp; Dock Holdings Corp., Madison Dearborn Capital Partners IV, L.P., certain stockholders of Aldabra Acquisition Corporation and certain stockholders of GLDD Acquisitions Corp. (Incorporated by reference to Great Lakes Dredge &amp; Dock Holding Corp.'s Registration Statement on Form S-4 filed with the Commission on August 24, 2006).</u></a>
10.17	<a href="#"><u>Great Lakes Dredge &amp; Dock Corporation 2017 Long-Term Incentive Plan (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 17, 2017).</u></a> †
10.18	<a href="#"><u>Great Lakes Dredge &amp; Dock Corporation 2021 Long-Term Incentive Plan (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 7, 2021).</u></a> †



Number	Document Description
10.19	<a href="#">Form of Great Lakes Dredge &amp; Dock Corporation Restricted Stock Unit Award Agreement pursuant to the Great Lakes Dredge &amp; Dock Corporation 2017 Long-Term Incentive Plan. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 4, 2018).</a> †
10.20	<a href="#">Form of Great Lakes Dredge &amp; Dock Corporation Performance-Based Restricted Stock Unit Award Agreement (Three Year Form) pursuant to the Great Lakes Dredge &amp; Dock Corporation 2017 Long-Term Incentive Plan. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 4, 2018).</a> †
10.21	<a href="#">Restricted Stock Unit Award Notice pursuant to the Great Lakes Dredge &amp; Dock Corporation 2017 Long-Term Incentive Plan. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 3, 2019).</a> †
10.22	<a href="#">Performance-Based Restricted Stock Unit Award Notice pursuant to the Great Lakes Dredge &amp; Dock Corporation 2017 Long-Term Incentive Plan. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on May 3, 2019).</a> †
10.23	<a href="#">Great Lakes Dredge &amp; Dock Corporation Director Deferral Plan (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on February 28, 2018).</a> †
10.24	<a href="#">Purchase Agreement, dated May 12, 2021, by and among the Company, certain subsidiary guarantors named therein and BofA Securities, Inc., as representative of the initial purchasers named therein. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 18, 2021).</a>
10.25	<a href="#">Amended and Restated Revolving Credit and Security Agreement dated as of May 3, 2019 by and among Great Lakes Dredge &amp; Dock Corporation, as Borrower, each other Credit Party party hereto from time to time, the financial institutions which are now or which hereafter become a party hereto as lenders, PNC Capital Markets, CIBC Bank, USA, Suntrust Robinson Humphrey, Inc., and Bank of America, N.A., as joint lead arrangers and joint bookrunners, HSBC Bank USA, N.A., as documentation agent, and PNC Bank, National Association, as lender and as agent (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 2, 2019).</a> (1)
10.26	<a href="#">Agreement of Indemnity, dated as of September 7, 2011, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Lydon Dredging and Construction Company, Ltd., Fifty-Three Dredging Corporation, Dawson Marine Services Company, Great Lakes Dredge &amp; Dock Environmental, Inc. f/k/a Great Lakes Caribbean Dredging, Inc., NASDI, LLC, NASDI Holdings Corporation, Yankee Environmental Services, LLC, Great Lakes Dredge &amp; Dock (Bahamas) Ltd. and Zurich American Insurance Company and its subsidiaries and affiliates. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Annual Report on Form 10-K filed with the Commission on March 29, 2013).</a>
10.27	<a href="#">First Rider to the General Agreement of Indemnity, dated as of June 4, 2012, by and among Great Lakes Dredge &amp; Dock Corporation, Great Lakes Dredge &amp; Dock Company, LLC, Lydon Dredging and Construction Company, Ltd., Fifty-Three Dredging Corporation, Dawson Marine Services Company, Great Lakes Dredge &amp; Dock Environmental, Inc. f/k/a Great Lakes Caribbean Dredging, Inc., Great Lakes Dredge &amp; Dock (Bahamas) Ltd. and Zurich American Insurance Company and its subsidiaries and affiliates. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 4, 2015).</a>
10.28	<a href="#">Vessel Construction Agreement, dated June 5, 2020 by and between Conrad Shipyard, L.L.C., and Great Lakes Dredge &amp; Dock Company, LLC. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Quarterly Report on Form 10-Q filed with the Commission on August 4, 2020).</a> (1)
10.29	<a href="#">Vessel Construction Agreement, dated November 15, 2021 by and between Philly Shipyard Inc., and Great Lakes Dredge &amp; Dock Company, LLC. (1)*</a>
14.1	<a href="#">Code of Business Conduct and Ethics. (Incorporated by reference to Great Lakes Dredge &amp; Dock Corporation's Current Report on Form 8-K filed with the Commission on May 18, 2016).</a>
21.1	<a href="#">Subsidiaries of Great Lakes Dredge &amp; Dock Corporation. *</a>
23.1	<a href="#">Consent of Deloitte &amp; Touche LLP. *</a>
31.1	<a href="#">Certification Pursuant to Rules 13a-14 and 15d-14 under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. *</a>

Number	Document Description
<a href="#">31.2</a>	<a href="#">Certification Pursuant to Rules 13a-14 and 15d-14 under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a> *
<a href="#">32.1</a>	<a href="#">Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a> *
<a href="#">32.2</a>	<a href="#">Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a> *
101.INS	Inline XBRL Instance Document. *
101.SCH	Inline XBRL Taxonomy Extension Schema. *
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase. *
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase. *
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase. *
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase. *
104	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101) *
(1)	Portions of this exhibit have been omitted pursuant to Rule 601(b)(10) of Regulation S-K. The omitted information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

\* Filed herewith

† Compensatory plan or arrangement



**EMPLOYMENT AGREEMENT**

This **EMPLOYMENT AGREEMENT** (the “**Agreement**”) is made as of this \_\_ day of February 2021 (the “**Agreement Date**”), to be effective the 7<sup>th</sup> day of December, 2020 (the “**Start Date**”), by and between Great Lakes Dredge & Dock Corporation (the “**Corporation**”), with and on behalf of its wholly owned subsidiaries (together, the “**Company**”), and Vivienne Schiffer (“**Executive**”).

**ARTICLE I  
EMPLOYMENT SERVICES**

**1.1** **Term of Employment.** Executive’s employment under this Agreement shall commence on the Start Date and continue until the second annual anniversary of such date, unless terminated earlier pursuant to **Article III** herein (the “**Initial Employment Term**”). The Employment Term shall be extended automatically for successive one-year periods unless, at least 60 days prior to expiration of the Employment Term, either party gives written notice to the other party that it does not wish to renew the Agreement (such one-year extension(s) and the Initial Employment Term to be, collectively, the “**Employment Term**”).

**1.2** **Position and Duties.** During the Employment Term, Executive shall hold the position of Senior Vice President, Chief Legal Officer, Chief Compliance Officer, and Corporate Secretary –and shall report to the Company’s Chief Executive Officer. Executive shall perform such duties and responsibilities as are consistent with a senior executive of the Company and those duties as may be assigned to Executive by the Chief Executive Officer from time to time. Executive shall devote Executive’s full business time, attention, skill and energy to the business and affairs of the Company and shall use Executive’s reasonable best efforts to perform such responsibilities in a diligent, loyal, and businesslike manner so as to advance the best interests of the Company. Executive shall act in conformity with Company’s written and oral policies and within the limits, budgets and business plans set by the Company, and shall adhere to all rules and regulations in effect from time to time relating to the conduct of employees of the Company. Executive’s office will be at the principal corporate offices of the Company, and Executive will be expected to conduct his/her activities from such office other than when traveling on behalf of the Company. Notwithstanding the foregoing, Executive shall be permitted to devote a reasonable amount of time and effort to civic and charitable organizations and managing personal investments; but only to the extent that such activities, individually or as a whole, do not materially interfere with the execution of Executive’s duties hereunder, or otherwise violate any provision of this Agreement. Executive shall not become involved in the management of any corporation, partnership, or other entity, including serving on the board of directors of any for-profit private or publicly traded company, without the written consent of the Corporation’s Board of Directors (the “**Board**”).

**1.3** **Service on Board.** The Company may require Executive to serve without additional compensation as a member of the Board or as an officer or director of any of the Company entities. Any compensation or other remuneration received from such service may be offset against the amounts due hereunder.

**ARTICLE II  
COMPENSATION**

**2.1** **Base Salary.** The Company shall pay Executive an annual base salary (“**Base Salary**”) of \$356,000 (fixed for fiscal year 2021), payable in accordance with the general payroll practices of the Company. The Board may, in its sole discretion, increase Executive’s Base Salary, or it may decrease Executive’s Base Salary by up to ten percent (10%) if there is a salary reduction affecting substantially all similarly situated senior managers of the Company.

**2.2** **Incentive Compensation.** Executive will be eligible to participate in any annual performance bonus plans and long-term incentive plans established and maintained by the Company for

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certain senior managers including, but not limited to, the Annual Bonus Plan, 2017 Long-Term Incentive Plan or such similar or successor plans as the Company may establish. Such bonus will be paid in accordance with the Company's standard practice, but in any event no later than 2.5 months after the end of the calendar year in which Executive earns such bonus. All incentive compensation paid to Executive will be subject to the terms of the Company's policy for recovering overpayments of incentive compensation in certain circumstances, including a restatement of reported financial or operating results, fraud, or misconduct, in effect from time to time.

**2.3**                    **Equity Compensation.** Executive will be eligible to participate in any equity-based compensation plans established or maintained by the Company for certain similarly situated senior managers, including but not limited to the Company's 2017 Long-Term Incentive Plan and any successor thereto. All equity compensation paid to Executive will be subject to the terms of the Company's recoupment policy in effect from time to time.

**2.4**                    **Employee Benefit Plans.** Executive will be eligible to participate on substantially the same basis as the Company's other similarly situated employees in any other employee benefit plans offered by the Company to similarly situated senior managers, including, without limitation, the Company's Supplemental Savings Plan (or any successor thereto), medical, dental, short-term and long-term disability, life, pension, profit sharing and nonqualified deferred compensation arrangements. The Company reserves the right to modify, suspend or discontinue any and all of the plans, practices, policies and programs and eligibility thereunder at any time, in its sole discretion, without recourse by Executive.

**2.5**                    **Vacation/Paid Time Off.** Executive will be entitled to twenty-two days of paid vacation per calendar year, subject to the Company's vacation policy in effect from time to time. The Company may, at its discretion, increase (but not decrease) Executive's vacation entitlement.

**2.6**                    **Business Expenses.** The Company will reimburse Executive for all reasonable and necessary business expenses incurred in the performance of services with the Company, according to the Company's policies and upon Executive's presentation of an itemized written statement and such verification as the Company may require.

**2.7**                    **D&O Insurance; Indemnification.** During the Employment Term, the Company will purchase and maintain, at its own expense, directors' and officers' liability insurance providing coverage to Executive on terms equivalent to those provided to other executive officers. Further, the Company will defend, indemnify, and hold Executive harmless, the maximum extent permitted by applicable law and permitted by the Company's governing documents, from and against legal claims which may be asserted against Executive arising out of Executive's good faith performance of duties pursuant to this Agreement.

### **ARTICLE III TERMINATION OF EMPLOYMENT**

**3.1**                    **Voluntary Resignation Without Good Reason.** Executive may terminate his/her employment for any reason by giving the Company 30 days' prior written notice of a voluntary resignation date ("**Resignation Date**"). Upon receiving Executive's notice of intent to resign, the Company may require that Executive cease performing services for the Company at any time before the Resignation Date, so long as the Company continues Executive's Base Salary under **Section 2.1** and employee benefits under **Section 2.4** through the Resignation Date. Except as otherwise provided under law or the terms of any employee benefit plans in which Executive participates, Executive shall not be entitled to receive any compensation or benefits from the Company after the Resignation Date if he/she voluntarily terminates employment hereunder without Good Reason.

**3.2**                    **Termination By Company With Cause.** The Company may terminate Executive's employment for Cause (as defined below) by giving written notice to Executive designating an immediate or future termination date ("Cause Termination Date"). In the event of a termination for Cause, the Company shall pay Executive his/her Base Salary under **Section 2.1** and employee benefits under **Section**

**2.4** through the Cause Termination Date. Except as otherwise provided under law or the terms of any employee benefit plans in which Executive participates, Executive shall not be entitled to receive any compensation or benefits from the Company after the Cause Termination Date.

For purposes of this Agreement, "**Cause**" means:

- (a)                    Executive materially breaches this Agreement;
- (b)                    Executive commits an act constituting a felony or engages in illegal, unethical, or immoral conduct that, in the reasonable judgment of the Board, could injure the integrity, character, or reputation of the Company;
- (c)                    Executive is convicted, enters a plea of no contest or *nolo contendere*, or receives deferred adjudication or un-adjudicated probation for any felony or any crime involving moral turpitude; or
- (d)                    Executive fails or refuses to carry out, or comply with, in any material respect, any lawful directive of the Chief Executive Officer (or Executive's direct supervisor at the time) that is consistent with the terms of the Agreement or with the Company's written plans and policies, which is not remedied within 30 days after Executive's receipt of written notice of same from the Company.

**3.3**                    **Termination By Company Without Cause or by Executive for Good Reason.** The Company may terminate Executive's employment without Cause by giving written notice to Executive designating an immediate or future termination date. Executive may terminate his/her employment hereunder for Good Reason, which will be treated as a termination by the Company without Cause. The effective date of a termination by the Company without Cause or by Executive for Good Reason will be the Executive's "Termination Date."

Good Reason means the occurrence of all of the following: (a) an involuntary, material diminution of Executive's authority, reporting line, duties or responsibilities that is not intended to be temporary, (b) Executive provides written notice to the Company's Board and Chief Executive Officer of the specific diminution within thirty days after it takes effect, gives the Company thirty days to cure same, and the condition remains uncured, and (c) Executive resigns within 65 days following the initial occurrence of the diminution.

In the event of a termination without Cause or for Good Reason, Executive shall receive from the Company his/her Base Salary under **Section 2.1** and employee benefits under **Section 2.4** through the Termination Date and shall be eligible to receive the benefits described in **Sections 3.3** below (collectively, "**Severance Pay**"), subject to the requirements set forth in **Section 3.6** and **Section 3.7**. The period over which the amounts in **Section 3.3(a)** are payable is referred to as the "**Severance Period**."

If Executive's employment hereunder is terminated by the Company without Cause or by the Executive for Good Reason, the Company will provide the following compensation and benefits to Executive:

- (a)                    Payment of Executive's then current Base Salary, less applicable withholdings, for 12 months. This amount will be paid in equal installments on each regularly scheduled payroll pay date during the 12 month period that begins on the Termination Date, subject to **Section 3.6**.
- (b)                    The pro rata portion of the target annual bonus and the Supplemental Savings Plan benefits earned through the Termination Date. Such amounts will be paid when all other Company

executives receive such payments, but in no event later than March 15 of the year following the Termination Date.

(c) Provided that Executive timely elects continuation of group health plan coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986, as amended (“COBRA”), the Company will provide a COBRA premium subsidy through the Severance Period (“COBRA Premium Subsidy”). The amount of the COBRA Premium Subsidy will be equal to cost of such COBRA benefits minus the cost the Executive would pay for such benefits if the Executive were an active employee. During the Severance Period, Executive will be required to pay only the unsubsidized portion of the COBRA premium (i.e., the active employee rate for such coverage). To qualify Executive for the COBRA Premium Subsidy, Executive must timely pay the applicable unsubsidized COBRA premiums required to maintain coverage for Executive, the Executive’s spouse and any eligible dependents under COBRA. It is understood and agreed that the period of time during which Executive is eligible for the COBRA Premium Subsidy shall run concurrent with and be credited toward the continuation coverage period to which Executive would be entitled pursuant to COBRA. Notwithstanding the foregoing, Executive understands and agrees that the Company’s obligation to provide the COBRA Premium Subsidy shall cease on the earliest of (i) the end of the Severance Period, (ii) the date on which Executive becomes eligible for group health coverage offered by another employer or (iii) the date on which Executive otherwise ceases to be eligible for COBRA. Executive further understands and agrees that all other provisions of Executive’s (and Executive’s spouse and covered eligible dependents’) COBRA coverage (including, without limitation, any applicable co-payments, deductibles, and other out-of-pocket expenses) will be in accordance with the applicable plan in effect for similarly situated active employees, as applicable. Executive also understands and agrees that the amount of the COBRA Premium Subsidy may be included in Executive’s taxable income and subject to applicable tax withholdings and required deductions from any severance payments. After the Severance Period expires, Executive will be required to timely pay the full monthly COBRA premium to continue COBRA coverage for any additional COBRA coverage period for which Executive or Executive’s spouse eligible dependents are eligible.

(d) During the twelve (12) month period immediately following the Termination Date, the Company shall treat Executive as if he/she were a continuing employee for purposes of applying the age and vesting provisions of unvested performance or non-performance-based equity awards, measured from the date of Executive’s termination of employment. For the avoidance of doubt, the vesting and delivery of any such awards that are earned by Executive as a result of such continued vesting credit shall occur at the normally scheduled vesting date as specified in the underlying equity award agreement.

(e) The Company will pay for and/or provide to Executive outplacement services with an outplacement firm of Executive’s choosing, provided that the Company shall not be responsible to pay for such services to the extent such services (aa) exceed \$15,000 or (bb) are provided more than one year following the Release Effective Date (as defined below).

Except as otherwise provided under law or the terms of any employee benefit plans in which Executive participates, Executive shall not be entitled to receive any additional compensation or benefits from the Company after the Termination Date except as provided herein. All Severance Pay paid to Executive will be subject to the terms of the Company’s policy for recovering overpayments of incentive compensation in certain circumstances, including a restatement of reported financial or operating results, fraud, or misconduct, in effect from time to time.

**3.4** **Change in Control.** If, contemporaneous with or within twelve months after a Change in Control (as defined below), the Executive’s employment is terminated by the Company other than for Cause, or terminated by Executive for Good Reason, Executive will be eligible to receive, in lieu of those payments provided under **Section 3.3(a) and (b)**, as applicable: (a) one and one-quarter (1¼) times Executive’s then

current Base Salary; and (b) an amount equal to Executive's target annual bonus for the year that includes the Termination Date (together, the "**Change in Control Payment**"), subject to the requirements set forth in **Section 3.6**. The Change in Control Payment will be made in a lump sum cash payment as soon as practicable, but in no event more than 30 days after the later of the Release Effective Date (as defined below) or the effective date of the Change in Control. Executive shall also receive full, accelerated vesting credit, on the date of the Release Effective Date (as defined below), for any outstanding unvested, time-vesting equity awards (not performance-based awards) consistent with and subject to the limitations of **Section 3.7**. In addition, Executive will be eligible for the continued health plan coverage described in **Section 3.3(c)** and the outplacement services described in **Section 3.3(e)**.

For purposes of this Agreement, a "**Change in Control**" will occur as of the first day that any one or more of the following conditions is satisfied:

(i) The "beneficial ownership" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) of securities representing 30% or more of the combined voting power of the then outstanding voting securities of the Corporation entitled to vote generally in the election of directors (the "**Corporation Voting Securities**") is accumulated, held or acquired by a Person (as defined in Section 3(a)(9) of the Exchange Act, as modified, and used in Sections 13(d) and 14(d) thereof) (other than the Corporation, any trustee or other fiduciary holding securities under an employee benefit plan of the Corporation, holders of capital stock of the Corporation as of the date hereof or an affiliate thereof, any corporation owned, directly or indirectly, by the Corporation's stockholders in substantially the same proportions as their ownership of stock of the Corporation); *provided, however* that any acquisition from the Corporation or any acquisition pursuant to a transaction that complies with clauses (A), (B) and (C) of subparagraph (iii) of this paragraph will not be a Change in Control under this subparagraph (i), and *provided further*, that immediately prior to such accumulation, holding or acquisition, such Person was not a direct or indirect beneficial owner of 25% or more of the Corporation Voting Securities; or

(ii) Within any twelve (12) month period that includes or is after the Start Date, individuals who constitute the Corporation's Board (the "**Incumbent Board**") cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election by the Corporation's stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board will be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board; or

(iii) Consummation by the Corporation of a reorganization, merger or consolidation, or sale or other disposition of all or substantially all of the assets of the Corporation or the acquisition of assets or stock of another entity (a "**Business Combination**"), in each case, unless immediately following such Business Combination: (A) more than 60% of the combined voting power of then outstanding voting securities entitled to vote generally in the election of directors of (x) the corporation resulting from such Business Combination (the "**Surviving Corporation**"), or (y) if applicable, a corporation that as a result of such transaction owns the Corporation or all or substantially all of the Corporation's assets either directly or through one or more subsidiaries (the "**Parent Corporation**"), is represented, directly or indirectly by Corporation Voting Securities outstanding immediately prior to such Business Combination (or, if applicable, is represented by shares into which such Corporation Voting Securities were converted pursuant to such Business Combination), and such voting power among the holders thereof is in substantially the same proportions as their ownership, immediately prior to such Business Combination, of the Corporation Voting Securities; (B) no Person (excluding any employee benefit plan (or related trust)



of the Corporation or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 20% or more of the combined voting power of the then outstanding voting securities eligible to elect directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) except to the extent that such ownership of the Corporation existed prior to the Business Combination; and (C) at least a majority of the members of the board of directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Business Combination; or

(iv) Approval by the Corporation's stockholders of a complete liquidation or dissolution of the Corporation.

However, in no event will a Change in Control be deemed to have occurred with respect to Executive if Executive is part of a purchasing group that consummates the Change in Control transaction. Executive will be deemed "part of a purchasing group" for purposes of the preceding sentence if Executive is an equity participant in the purchasing company or group (except: (a) passive ownership of less than two percent of the stock of the purchasing company; or (b) ownership of equity participation in the purchasing company or group that is otherwise not significant, as determined prior to the Change in Control by a majority of the nonemployee continuing Directors; *provided that*, for purposes of the foregoing, participation as a management investor in such purchasing company will not be deemed to be within the exceptions provided for in (a) and (b)).

Notwithstanding anything to the contrary, a Change in Control will have occurred only if such Change in Control constitutes a change in control under Section 409A of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the regulations and other guidance in effect thereunder ("**Section 409A**").

**3.5. Non-Renewal.** For the avoidance of doubt, either party's provision of written notice to the other party of intent not to renew this Agreement and the subsequent termination of the Agreement by expiration pursuant to **Section 1.1**, above, shall not be deemed a termination without Cause under **Section 3.3**, and in such a case, Executive shall be entitled to receive no compensation or benefits from the Company after expiration of this Agreement in accordance with its terms, except as otherwise provided in this paragraph, under law, or the terms of any employee benefit plans in which Executive participates. Notwithstanding the foregoing, in the event the Company elects not to renew the Agreement and Executive's employment is terminated without Cause (or Executive terminates his/her employment for Good Reason, as set forth in **Section 3.3**) within twelve (12) months immediately following the end of the Employment Term, as defined in this Agreement, then during the remaining period of vesting associated with any outstanding equity awards, Company shall treat Executive as if he/she were a continuing employee for purposes of applying the vesting provisions of all unvested performance or non-performance based equity awards, measured from the date of Executive's termination of employment, subject to the requirements set forth in **Section 3.6**. For the avoidance of doubt, the vesting and delivery of any such awards that are earned by Executive as a result of such continued vesting credit shall occur at the normally scheduled vesting date as specified in the underlying equity award agreement.

**3.6 Execution of Separation Agreement.** As a condition to receiving the Severance Pay or the Change in Control Payment set forth in **Section 3.3** or **Section 3.4**, respectively, Executive must execute and return to the Company, and not revoke any part of, a separation agreement containing a general release and waiver of claims against the Company and its respective officers, directors, stockholders, employees and affiliates with respect to Executive's employment, and other customary terms, in a form and substance reasonably acceptable to the Company and in conformity with applicable laws and regulations then in effect. The Company shall deliver to Executive such release within ten (10) days following Executive's termination of employment and Executive shall deliver an original, signed release to the Company within twenty-one (21) days of receipt thereof (or such longer period as may be required by applicable law to constitute an effective release of all claims, but no longer than 45 days after the after receipt of the same from the Company) (the "**Release Deadline**"). Notwithstanding anything in this Agreement to the contrary,

no payments pursuant to **Section 3.3** or **Section 3.4** shall be made prior to the date that both (a) Executive has delivered an original, signed release to the Company and (b) the revocability period (if any) has elapsed without Executive having exercised Executive's revocation rights (the "**Release Effective Date**"). Any payments that would otherwise be made hereunder during the first sixty (60) days following Executive's Termination Date will be made on the 65<sup>th</sup> day following Executive's Termination Date termination of employment. If Executive does not deliver an original, signed release to the Company by the Release Deadline, (i) Executive's rights shall be limited to those made available to Executive under **Section 3.1** above, and (ii) the Company shall have no obligation to pay or provide to Executive any amount or benefits described in **Section 3.3** or **Section 3.4**, or any other monies on account of the termination of Executive's employment. Any obligation of the Company to provide the Severance Pay shall cease: (A) upon Executive's death; (B) if Executive materially breached or breaches Executive's contractual obligations to the Company, including those set forth in **Article IV** or **Article V** herein, or in the release agreement; or (C) if, after Executive's termination, the Company discovers facts and circumstances that would have justified a termination for Cause ("Disqualifying Conduct"); provided, however, that upon any subsequent determination that there was no Disqualifying Conduct, the Company shall immediately pay any unpaid Severance Pay or Change in Control Payment as contemplated in **Section 3.3** or **Section 3.4**.

**3.7 Section 409A.** While the parties acknowledge that any payments and benefits provided under **Article III** of this Agreement are intended to be exempt from Section 409A, to the extent (a) further guidance or interpretation is issued by the IRS after the date of this Agreement which would indicate that the payments do not qualify for such exemption or the amount of payments due under **Article III** increases in a manner to cause certain payments to exceed the limitation available for exempt separation payments and (b) Executive is a "specified employee" within the meaning of Code Section 409A(a)(2)(B)(i) upon the date of Executive's termination of employment, such payments or benefits which are not exempt and would otherwise be payable to Executive prior to the date that is six (6) months following the date of Executive's separation from service (within the meaning of Section 409A) shall be delayed and instead shall be paid to Executive on the first regular payroll date that occurs after the six (6) month anniversary of Executive's separation from service (within the meaning of Section 409A). For purposes of Section 409A, each installment of the Severance Pay under **Article III** shall be treated as a right to a separate payment.

**3.8 Excess Parachute Payments.** Notwithstanding any provision of this Agreement to the contrary, if any amount or benefit to be paid or provided under this Agreement, individually or together, would be an "Excess Parachute Payment" within the meaning of Code Section 280G but for the application of this sentence, then the payments and benefits to be paid or provided under this Agreement will be reduced to the minimum extent necessary (but in no event to less than zero) so that no portion of any such payments or benefits, as so reduced, constitutes an Excess Parachute Payment; *provided, however*, that the foregoing reduction will be made only if and to the extent that such reduction would result in an increase in the aggregate payments and benefits to be provided to Executive, determined on an after-tax basis (taking into account the excise tax imposed pursuant to Code Section 4999, any tax imposed by any comparable provision of state law, and any applicable federal, state and local income and employment taxes).

The fact that Executive's right to payments or benefits may be reduced by reason of the limitations contained in this **Section 3.8** will not of itself limit or otherwise affect any other rights of Executive other than pursuant to this Agreement. In the event that any payment or benefit intended to be provided under this Agreement is required to be reduced pursuant to this **Section 3.8**, the reduction shall be made in the following order: (a) first reducing, if any, those payments or benefits which have a higher Parachute Value than actual present value, (b) then, to the extent necessary, reducing cash payments or benefits; and (c) then, to the extent necessary, reducing those payments or benefits having the next highest ratio of Parachute Value to actual present value of such payments or benefits as of the date of the change of control (as defined under Code Section 280G). For purposes of this **Section 3.8**, present value shall be determined in accordance with Section 280G(d)(4) of the Code. For purposes of this **Section 3.8**, the "**Parachute Value**" of a payment or benefit means the present value as of the date of the change of control of the portion of such payment that constitutes a "parachute payment" under Section 280G(b)(2) of the Code, as valued in

accordance with Section 280G of the Code any interpretive guidance thereunder.

**3.9**                    **Removal from any Boards and Positions.** If Executive’s employment is terminated for any reason under this Agreement, Executive will, immediately upon Executive’s termination of employment, be deemed to have resigned from (a) if a member, the Board as well as the board of directors of any Company entity or any other board to which Executive has been appointed or nominated by or on behalf of the Company, (b) any position with the Company or any Company entity, including, but not limited to, as an officer of the Company or any Company entity, and (c) any fiduciary positions with respect to the Company’s benefit plans. In addition, and as a condition to receiving the Severance Pay described in **Section 3.3** or the Change in Control Payment described in **Section 3.4**, Executive shall take any and all necessary steps to effectuate Executive’s resignation from such positions.

**ARTICLE IV**  
**EXCLUSIVITY OF SERVICES AND RESTRICTIVE COVENANTS**

**4.1**                    **Confidential Information.** The Company will provide Executive with access to and use of the Company’s Confidential Information (as defined below) in the course and scope of Executive’s employment. Executive acknowledges and agrees that the Confidential Information (as defined below) of the Company (as defined above) and Company subsidiaries and any other entity related to the Company entities (each, a “**GLDD Entity**”) that Executive obtains during Executive’s employment by the Company is the property of the Company or such other GLDD Entity and that the Company has the need and the right to protect the Confidential Information. Executive agrees that, except as expressly authorized in connection with Executive’s employment hereunder, Executive will never, directly or indirectly, disclose, publish, or use any Confidential Information of which Executive has become aware, whether or not such information was developed by Executive. All duties and obligations set forth in this Agreement regarding Confidential Information shall be in addition to those which exist under the Texas Uniform Trade Secrets Act and other applicable state and federal statutory law and common law.

As used in this Agreement, “Confidential Information” means information that is not generally known to the public and that was or is used, developed, or obtained by the Company or any other GLDD Entity, in connection with their respective businesses, including but not limited to:

- i.                    products or services, anticipated or unannounced products or services, product, or service development information (or other proprietary product or service information);
- ii.                    fees, costs, bids and pricing structures and quotations or proposals given to agents, customers, sureties, suppliers, or prospective customers, agents, sureties, or suppliers, or received from any such person or entity;
- iii.                    accounting or financial records;
- iv.                    strategic business plans;
- v.                    information system applications or strategies;
- vi.                    customer and vendor lists and employee lists and directories;
- vii.                    marketing plans, bidding strategies and processes, and negotiation strategies, whether past, current, or future;
- viii.                    accounting and business methods;
- ix.                    legal advice and/or attorney work product;

- x. trade secrets and other proprietary information;
- xi. information, analysis or strategies regarding acquisitions, mergers, other business combinations, divestitures, recapitalizations, or new ventures; and
- xii. nonpublic information that was acquired by Executive concerning the requirements and specifications of the Company's or any other GLDD Entity's agents, vendors, contractors, customers, or potential customers.

Notwithstanding anything to the contrary, Confidential Information does not include any information that: (a) is publicly disclosed by law or pursuant to, and to the extent required by, an order of a court of competent jurisdiction or governmental agency; (b) becomes publicly available through no fault of Executive or another person acting in breach of contractual or other legal obligations; or (c) has been published in a form generally available to the public before Executive proposes to disclose, publish, or use such information.

**Defend Trade Secrets Act (DTSA) Notice:** Pursuant to 18 USC § 1833(b), an individual may not be held criminally or civilly liable under any federal or state trade secret law for disclosure of a trade secret:

(i) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; and/or (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Additionally, an individual suing an employer for retaliation based on the reporting of a suspected violation of law may disclose a trade secret to his or her attorney and use the trade secret information in the court proceeding, so long as any document containing the trade secret is filed under seal and the individual does not disclose the trade secret except pursuant to court order.

**4.2 Noncompetition. Texas Law License; Compliance with Texas Rules of Disciplinary Conduct; Preservation of Privilege.** During the Employment Term, Executive will be employed as an attorney, and Executive's job duties will include providing legal advice to the Company and those acting on its behalf. Executive represents that Executive is licensed and authorized to practice law in the State of Texas, without restriction, and Executive agrees to maintain Executive's license to practice law in Texas in good standing at all times during the Employment Term. During the Employment Term and any Severance Period, Executive will comply in all material respects with the Texas Disciplinary Rules of Professional Conduct. In addition to the protection of confidential information as set forth above, during the Employment Term and any Severance Period, Executive will take reasonable steps to ensure that communications between Executive and the Company's representatives and agents, and communications or actions undertaken at the direction of Executive, are protected by the attorney-client communication privilege and/or attorney work product doctrine, as applicable, to the greatest extent permitted by applicable law, regulation or rule, except when waiver of such protection is determined in good faith to be in the best interest of the Company.

**4.3 Non-Solicitation.** During the Employment Term and for the period commencing on the expiration of the Employment Term and ending on the date that is 365 calendar days following the expiration of the Employment Term (the "**Restricted Period**"), Executive shall not (other than in furtherance of Executive's legitimate job duties on behalf of the GLDD Entities), directly or indirectly, on Executive's own behalf or for any other person or entity: (a) solicit for employment, hire or engage, or attempt to solicit for employment, hire or engage, any person who is or was employed by any GLDD Entity within the six (6) month period prior to the solicitation, hire or engagement, or (b) otherwise interfere with the relationship between any such person and the applicable GLDD Entity.

**4.4 Non-Interference with Business Relationships.** During the Restricted Period, Executive shall not (other than in furtherance of Executive's legitimate job duties on behalf of the Company), directly or indirectly, on Executive's own behalf or for any other person or entity: (a) solicit, for a purpose related to a competitive activity (i.e., an activity prohibited by **Section 4.2**), any customer, vendor or agent of the

GLDD Entity that was doing business with the GLDD Entity during the six month period prior to the solicitation; or (b) induce, or attempt to induce, any customer, vendor or agent of the GLDD Entity to reduce or cease doing business with the GLDD Entity, or otherwise interfere with the relationship between such entity and the GLDD Entity.

**4.5** **Equitable Modification.** If any court of competent jurisdiction shall deem any provision in this **Article IV** too restrictive, the other provisions shall stand, and the court shall modify the unduly restrictive provision to the point of greatest restriction permissible by law.

**4.6** **Remedies.** Executive acknowledges that the agreements and covenants contained in this **Article IV** are essential to protect the GLDD Entities and their business and are a condition precedent to entering into this Agreement. Should Executive breach any covenant in this **Article IV**, then among other remedies, the duration of the covenant shall be extended by the period of any such breach. Executive agrees that irreparable harm would result from Executive's breach or threat to breach any provision of this **Article IV**, and that monetary damages alone would not provide adequate relief to the Company for the harm incurred. Executive agrees that in addition to money damages, the Company shall be entitled to issuance of temporary, preliminary, and permanent injunctive relief restraining Executive from committing or continuing any breach without being required to post a bond. Without limiting the foregoing, upon a breach by Executive of any provision of this **Article IV**, any outstanding Severance Pay shall cease and be forfeited, and Executive shall immediately reimburse the Company for any Severance Pay previously paid.

## **ARTICLE V POST-TERMINATION OBLIGATIONS**

**5.1** **Return of Company Materials.** No later than the Termination Date (when advance notice of termination has been provided) or (3) business days following the termination of Executive's employment (when no advance notice is provided or termination is for Cause), Executive shall return to the Company all Company property that is then in Executive's possession, custody or control, including, without limitation, all keys, access cards, credit cards, computer hardware and software, documents, records, policies, marketing information, design information, specifications and plans, data base information and lists, and any other property or information that Executive has or had relating to any GLDD Entities (whether those materials are in paper or computer-stored form), and including but not limited to any documents containing, summarizing, or describing any Confidential Information. Executive shall be entitled to retain Executive's cellular telephone and cellular telephone number.

**5.2** **Employee Assistance.** During Executive's employment with the Company and any Severance Period, Executive shall, upon reasonable notice, furnish the Company with such information as may be in Executive's possession or control, and cooperate with the Company in any reasonable manner that the Company may request, including without limitation (i) conferring with the Company with regard to any litigation, claim, or other dispute in which the Company is or may become a party (other than a dispute between Executive and the Company arising out of this Agreement) and (ii) providing the Company with access to Executive's cellular phone and/or other electronic equipment for the purposes of any investigation into work-related matters. The Company shall reimburse Executive for all reasonable, approved out-of-pocket expenses incurred by Executive in fulfilling Executive's obligations under this **Section 5.2**. The Company will make any such reimbursement within 30 days of the date Executive provides the Company with documentary evidence of such expense consistent with the policies of the Company. Notwithstanding anything to the contrary, any such reimbursement shall be administered so as to comply with Treasury Regulation Section 1.409A-3(i)(1)(iv).

## **ARTICLE VI MISCELLANEOUS**

**6.1**                    **Notices.** Any notices, consents or other communications required or permitted to be sent or given hereunder shall be in writing and must be: (a) delivered personally, in which case the date of such notice shall be the date of delivery; (b) delivered to a nationally recognized overnight courier service, in which case the date of delivery shall be the next business day; or (c) sent by facsimile transmission (with a copy sent by first-class mail), in which case the date of delivery shall be the date of transmission, or if after 5:00 P.M., the next business day. If not personally delivered, notice must be sent as designated below:

    If to Executive, to the address listed on the signature page hereto or the last address on file for Executive in the records of the Company.

    If to the Company:

        Great Lakes Dredge & Dock Corporation 9811 Katy  
        Freeway, Suite 1200  
        Houston, Texas 77024  
        Attn: Chief Executive Officer fax:  
        telephone: with a  
        copy to:  
        Great Lakes Dredge & Dock Corporation 9811 Katy  
        Freeway, Suite 1200  
        Houston, Texas 77024  
        Attn: Chief Human Resources & Administrative Officer fax:  
        telephone:

or such other address as may hereafter be specified by written notice given by either party to the other party. Executive shall promptly notify the Company of any change in Executive's address set forth on the signature page.

**6.2**                    **Company Stock Retention.** Executive shall be subject to the Company's stock retention guidelines and policies in effect from time-to-time.

**6.3**                    **Withholding.** The Company may withhold from any payment it is required to make under this Agreement amounts sufficient to satisfy applicable withholding requirements under any federal, state, or local law, or any other amounts due and owing to the Company from Executive.

**6.4**                    **Successors and Assigns.** This Agreement shall not be assignable by Executive without the Company's written consent. Subject to Section 4, the Company may unilaterally assign this Agreement to any successor employer or corporation or entity that purchases substantially all of the assets of or succeeds to the business of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

**6.5**                    **Third Party Beneficiary.** Each of the GLDD Entities is a third-party beneficiary of this Agreement, is entitled to the rights and benefits of the Company hereunder, and may enforce the provisions of this Agreement as if it were a party thereto.

**6.6**                    **No Waiver.** No failure or delay by the Company or Executive in enforcing or exercising any right or remedy hereunder will operate as a waiver thereof or a waiver of any other right hereunder. No modification, amendment or waiver of this Agreement or consent to any departure by Executive from any of the terms or conditions thereof, will be effective unless in writing and signed by the Chief Executive Officer of the Company. Any such waiver or consent will be effective only in the specific instance and for the purpose for which given.

**6.7**                    **Severability; Survivability.** If any term or provision of this Agreement shall be held to be invalid or unenforceable, the remaining terms and provisions hereof shall be treated as independent obligations, shall not be affected thereby, and shall be enforced to the fullest extent permitted under law. Executive's obligations in **Articles IV** and **V**, and the Company's obligations in **Article III**, shall survive and continue in full force notwithstanding the termination of this Agreement or Executive's employment for any reason.

**6.8**                    **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement.

**6.9**                    **Governing Law; Waiver of Jury.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas, without regard to its conflict of law principles. For the purposes of any suit, action, or other proceeding arising out of this Agreement or with respect to Executive's employment hereunder, except with respect to a party seeking to obtain only injunctive relief for violation or threatened violation of this Agreement, the parties: (a) agree to submit disputes to arbitration as set forth in Section 6.11; and (b) waive their respective rights to a jury trial of any claims and causes of action. With respect to claims for injunctive relief which are excluded from Section 6.11, Executive and the Company irrevocably submit to the jurisdiction of the courts in Harris County, Texas.

**6.10**                  **Construction.** The language used in this Agreement will be deemed to be the language chosen by Executive and the Company to express their mutual intent, and no rule of strict construction will be applied against Executive or the Company. The heading in this Agreement are for convenience of reference only and will not limit or otherwise affect the meaning of the provision.

**6.11**                  **Entire Agreement; Amendments.** This Agreement contains the entire understanding of the parties hereto with regard to the subject matter contained herein, and supersedes all prior agreements, understandings, or letters of intent with regard to the subject matter contained herein between the parties hereto, unless otherwise specified herein. This Agreement shall not be amended, modified, or supplemented except by a written instrument signed by each of the parties hereto.

**6.12**                    **ARBITRATION OF DISPUTES.** EXCEPT AS PROVIDED IN SECTION 6.9 ABOVE, ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS CONTRACT, OR THE BREACH THEREOF, SHALL BE SETTLED BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION IN ACCORDANCE WITH ITS EMPLOYMENT ARBITRATION RULES AND MEDIATION PROCEDURES INCLUDING THE OPTIONAL RULES FOR EMERGENCY MEASURES OF PROTECTION. THE CONTROVERSY SHALL BE SUBMITTED TO ONE ARBITRATOR, EACH PARTY MAY STRIKE OR REJECT UP TO THREE POTENTIAL ARBITRATORS WITH THE SELECTIONS ALTERNATING BETWEEN THE COMPANY AND THE PARTY AND SELECTED FROM THE ROSTER OF ARBITRATORS OF THE AMERICAN ARBITRATION ASSOCIATION. THE PLACE OF ARBITRATION SHALL BE THE COUNTY IN WHICH THE PRINCIPAL CORPORATE OFFICES OF THE COMPANY ARE LOCATED. JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THE DECISION OF THE ARBITRATOR SHALL BE FINAL AND BINDING ON THE PARTIES.



IN WITNESS WHEREOF, each of the parties hereto has duly executed this Employment Agreement as of the date first set forth above.

**Great Lakes Dredge & Dock Corporation**

By: /s/ Lasse J. Petterson Chief  
Executive  
Officer

**Vivienne Schiffer**

/s/ Vivienne R. Schiffer

**EXHIBIT 10.29**

**CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH NOT MATERIAL AND IS THE TYPE OF INFORMATION THAT THE COMPANY TREATS AS PRIVATE OR CONFIDENTIAL. [\*\*\*] INDICATES THAT INFORMATION HAS BEEN REDACTED.**

**VESSEL CONSTRUCTION AGREEMENT**

**BY AND BETWEEN**

**PHILLY SHIPYARD, INC.  
(Builder)**

**AND**

**GREAT LAKES DREDGE & DOCK COMPANY, LLC  
(Owner)**

**FOR**

**SUBSEA ROCK INSTALLATION VESSEL**

**And ROFR Vessel**

**Dated as of November 15, 2021**

*GLDD Vessel Construction Agreement  
For Subsea Rock Installation Vessel*

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Exhibit N	Single Source Vendor Prices Included in Original Contract Price
Exhibit O	Interim Installment and Stage of Completion Schedule Vessel
Exhibit P	Basic Design Package

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**VESSEL CONSTRUCTION AGREEMENT**


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**THIS VESSEL CONSTRUCTION AGREEMENT** (this “*Agreement*”) is made as of the **15th day of November, 2021** (the “*Effective Date*”), between Philly Shipyard, Inc. (hereinafter, “*Builder*”), a Pennsylvania corporation whose principal place of business address is 2100 Kitty Hawk Avenue, Philadelphia, PA 19112 and Great Lakes Dredge & Dock Company, LLC (hereinafter, “*Owner*”), a Delaware limited liability company whose principal place of business address is 9811 Katy Freeway, Suite 1200, Houston, Texas 77024, for the design and construction of the Vessel (as defined below).

Builder and Owner agree as set forth below.

W I T N E S S E T H:

**Article 1      UNDERTAKING AND SCOPE OF WORK**

1.1 **Initial Undertaking.** Builder agrees to design and build at its own risk and expense and to sell and deliver to Owner, and Owner agrees to purchase, the Vessel (as defined below) on the terms and conditions as set forth herein. The Vessel shall be a subsea rock installation vessel, constructed to the Design, for the Contract Price, all in accordance with the Contract Documents. The Initial Vessel (as defined below) shall be designated as Builder’s Hull [\*\*\*]. The ROFR Vessel (as defined below) shall be designated as Builder’s Hull [\*\*\*].

1.2 **Specifications.** The Parties have agreed that the Vessel shall be built to the specifications set forth in the attached Exhibit A (the “*Specifications*”). The Specifications may be changed from time to time during the construction of the Vessel in accordance with the procedures stated below in Article 10, and such changes will be set forth in one or more sequentially numbered Change Orders (as defined below).

1.3 **Vessel Characteristics.** Without limitation to the Specifications, the Vessel shall have the following principal characteristics, subject to verification and adjustment as necessary upon Builder’s receipt of the conversion of the Design from imperial measurements to metric pursuant to Section 7.1(c):

Length overall:	[***] meters	([***] feet)
Breadth, molded:	[***] meters	([***] feet)
Depth at Main Deck:	[***] meters	([***] feet)
Draught (summer)	[***] meters	([***] feet)
Complement	[***] persons	

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**Confidential Commercial Information Execution Version**

Sailing Range	[***]	nautical miles
Trial Speed	[***]	knots
Service Speed	[***]	knots

1.4 U.S. Build. Builder is to ensure that the Vessel is built in the United States as required by United States law to be eligible for documentation under the United States flag with a coastwise trade endorsement; including ensuring that all major components of the hull and superstructure used in the construction of the Vessel are fabricated in the United States, and that all construction and all assembly for the construction of the Vessel is done in the United States to the extent required by law for the Vessel to receive a United States coastwise trade endorsement.

1.5 Scope of Work. Except as expressly provided herein, the work to be performed by Builder hereunder shall include all labor, overtime labor, standby labor, supervision, design, engineering, planning, construction, methods, Materials and supplies (including fuel, lubricating oils, hydraulic oils, greases, fresh water), tools, equipment, procurement, transportation, taxes, permits and fees and all other facilities and services necessary to provide Owner with the completed Vessel constructed in accordance with the Specifications, as amended from time to time in accordance with this Agreement.

1.6 Regulatory Approvals.

- (a) The Vessel shall be constructed in accordance with the Specifications as well as all applicable rules and regulations of the Regulatory Authorities, including, without limitation, Coast Guard regulations, EPA regulations, the International Convention on Load Lines (as amended), and all applicable Rules of the Classification Society.
- (b) Builder shall have sole and exclusive responsibility to obtain timely any approval required by any Regulatory Authority for any Detailed Design and Production Design derived by Builder from the Specifications, the Design, and the Contract Drawings, and for any Builder furnished equipment that requires approval by any Regulatory Authority.
- (c) Without limitation to the foregoing, Builder shall be solely responsible to obtain all necessary approvals from the Regulatory Authorities for the construction and classification of the Vessel, including the final approval of all plans, arrangements, and drawings.
- (d) Builder shall provide copies to Owner of each and all stamped plans, approval letters, equipment documentation approvals, Class survey reports, and all other

approvals issued by Regulatory Authorities as Builder receives the same from the Regulatory Authorities.

- (e) The Vessel shall be documented under the U.S. flag with the Coast Guard by Owner at its own cost and expense.

1.7 **Delivery.** Builder shall deliver the Vessel to Owner at the Delivery Point, safely afloat, in all respects fully seaworthy, fully constructed, fully outfitted, and fully tested in accordance with the Design as set forth in the Contract Documents, subject to Minor Non-Conformities.

1.8 **Delivery Date.** Delivery shall be made by [\*\*\*] (the "Delivery Date") subject to any Permissible Delays permitted in accordance with Article 16.

1.9 **ROFR Vessel.** Owner shall have the right of first refusal to purchase an additional Vessel (the "ROFR Vessel") on the terms and conditions set forth below:

- (a) Builder hereby grants to Owner a right of first refusal (a "First Refusal Right"), to be exercised during the period commencing on the Effective Date of this Agreement and ending [\*\*\*] after the Effective Date of this Agreement (such period, the "FRR Period"), to purchase the ROFR Vessel to be constructed and sold by Builder [\*\*\*], with the same specifications as the Vessel, on the terms set forth in this Agreement, but with changes to the Contract Price and Delivery Date as set forth herein. During the FRR Period, Builder will notify Owner if Builder is [\*\*\*] (such notification, the "FRR Builder Notice"). For clarity, [\*\*\*].
- (b) Provided that Owner is not in default under this Agreement pursuant to Section 18.10, notwithstanding any cure period that may be applicable, Owner may exercise the First Refusal Right with respect to the ROFR Vessel by giving written notice of exercise to Builder within [\*\*\*] after receipt of the FRR Builder Notice (a "FRR Owner Notice"). If Builder does not receive the FRR Owner Notice within such [\*\*\*] period, then Owner's First Refusal Right shall be deemed expired.
- (c) If Owner's First Refusal Right is exercised within the foregoing period, the initial Delivery Date for the ROFR Vessel will be determined by a schedule mutually agreed between the Parties at the time that Owner exercises its First Refusal Right, provided, however, that the duration of the construction period shall not exceed that used for the first Vessel to be constructed under this Agreement (the "Initial Vessel") except to the extent an extension is required

due to changes in Builder's production approach or unless otherwise mutually agreed in writing.

- (d) All other provisions of this Agreement shall apply in connection with the construction of the ROFR Vessel, *mutatis mutandis*.
- (e) For convenience, all subsequent references below shall be to a single Vessel, but without limitation of Owner's right to order the ROFR Vessel; where this Agreement refers to "the Vessel," such reference shall be deemed to refer to either the Initial Vessel or the ROFR Vessel, as applicable. For clarity, the Letter of Credit required in Article 6 for "the Vessel" secures Builder's obligations with respect to both the Initial Vessel and the ROFR Vessel.
- (f) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, amendments, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Section 1.9 and the consummation of the transactions contemplated hereby.

## **Article 2**      **CONTRACT INTERPRETATION**

2.1      **Defined Terms in this Agreement.** Capitalized terms used in this Agreement are defined herein, or in Schedule X. Terms defined in this Agreement which are used in the other Contract Documents or Change Orders but not otherwise defined therein, shall have the meanings assigned to them in this Agreement.

2.2      **Other Words.** Any word not specifically defined herein shall be construed and interpreted according to its ordinary meaning and shall be used so as to fairly accomplish the purposes and intentions of the Parties.

2.3      **Singular and Plurals.** Where the context requires, the singular includes the plural and vice versa.

2.4      **Contract Documents.** The term "***Contract Documents***" means this Agreement, including the Specifications attached in Exhibit A, the Contract Drawings, and all other Exhibits hereto, as well as the Basic Design, the Detailed Design, and all duly executed Change Orders. The Production Design is expressly excluded from the Contract Documents.

2.5      **Contract Drawings and Specifications.**



- (a) The intent of the Parties under the Contract Documents is for Builder to design and build the Vessel in accordance with the Contract Documents for the Contract Price and by the Delivery Date. The Contract Drawings and Specifications are to be considered as cooperative. All work necessary for the execution of the Work, if shown on the Contract Drawings and not described in the Specifications, or if shown in the Specifications and not described on the Contract Drawings, shall be considered as a part of the Work and shall be executed by Builder in the same manner and with the same character of Material as other portions of this Agreement without extra compensation.
- (b) If either Party identifies any discrepancy, difference, or conflict between the Specifications and the Contract Drawings, then such Party shall bring such discrepancy, difference, or conflict to the attention of the other Party promptly in writing, and the parties shall consult to confirm the specific arrangement or form required.
- (c) Any discrepancy, difference, or conflict between the Contract Drawings and the Specifications that requires or results in a change in the Work as set forth in the Specifications shall be addressed in accordance with Article 10.
- (d) If the Parties do not agree whether a discrepancy, difference, or conflict between the Specifications and the Contract Drawings exists, then such dispute shall be resolved in accordance with Article 26.

2.6 **Conflicts.** If there are any conflicts or inconsistencies among the terms of this Agreement and the Specifications, the terms of this Agreement shall take precedence over the Specifications.

2.7 **Headings and Captions.** The headings and captions in this Agreement are for convenience of reference only and shall be ignored in construing this Agreement.

2.8 **References.** References to Articles, Sections and Exhibits shall constitute references to Articles and Sections of this Agreement and Exhibits attached to this Agreement, unless otherwise indicated.

**Article 3      PRICE**

3.1 **Contract Price.** The total price payable by Owner to Builder for the Vessel to be designed, built, and delivered in accordance with the Contract Documents (the "Contract Price") shall be ONE HUNDRED NINETY SEVEN MILLION, SEVENTY-TWO THOUSAND, TWO

HUNDRED AND FORTY-FIVE DOLLARS (\$197,072,245), expressly subject to the provisions of this Article, including Section 3.4.

3.2      ROFR Vessel Price. The Contract Price for the ROFR Vessel (the “ROFR Vessel Price”) shall be [\*\*\*], which may only be adjusted as provided in accordance with the terms of Section 3.4.

3.3      Design and License Costs. The Contract Price includes all costs of design, modeling, royalty, and licensing expenses from Builder’s naval architects, designers, and other Subcontractors, including any detail and production engineering firm engaged by Builder.

3.4      Contract Price Adjustments. The Contract Price shall be modified based on the following:

- (a)      *Steel Weight Adjustment*.
  - (i)      The Contract Price includes a steel weight allowance of [\*\*\*] (the “*Steel Weight Allowance*”). The Contract Price may be increased or decreased based on the actual steel weight of the Vessel as built.
  - (ii)     For purposes of this Agreement steel weight is defined as [\*\*\*].
  - (iii)    Steel weight shall be determined for assemblies [\*\*\*].
  - (iv)    In the event that the actual steel weight of the Vessel varies from the Steel Weight Allowance, the Contract Price shall be adjusted by [\*\*\*], subject to the steel price adjustment set out in Subsection (b). The foregoing rate is to include all costs related to such variance, including but not limited to the costs of steel, transportation, finishing, cutting, shaping, and all other labor. In the event of an adjustment to the Contract Price pursuant to this Section 3.3(a), Builder shall prepare, and Builder and Owner shall execute, a Change Order reflecting such adjustment to the Contract Price after all steel is received at the Shipyard.
  - (v)    For purposes of adjusting the Contract Price, the actual steel weight shall be that weight of the Vessel's hull structural steel assembly as derived from the engineering software “AVEVA” or other equivalent software.
  - (vi)    The steel weight adjustment process described in this Subsection (a) shall not apply to any increase or decrease in the actual steel weight of the Vessel

due to any Change Order. Changes in steel weight as a result of a Change Order shall be addressed in accordance with Article 10.

- (b) *Steel Price Adjustment.* The Contract Price represents an average steel cost per pound of [\*\*\*] for structural steel plate, bulb flats, and structural stiffeners (“*Structural Steel*”). The foregoing cost is to include all costs related to Structural Steel, including but not limited to the costs of plates, profiles and transportation to the Shipyard. The Contract Price shall be decreased if the average cost per pound of Structural Steel is less than that price, or shall be increased if the average cost per pound for Structural Steel exceeds that price, in either case based on the actual cost paid by Builder for Structural Steel at time of delivery of such Structural Steel to Builder. After all steel is received at the Shipyard, Builder shall prepare, and Builder and Owner shall execute, a Change Order reflecting such decrease or increase in the Per Vessel Contract Price for the Vessel affected.
- (c) *Change Orders.* The Contract Price shall be altered by the agreed cost or savings of Change Orders applicable to the Vessel, if any, made in accordance with Article 10.
- (d) *Early Delivery.* The Contract Price may be increased as an incentive for actual Delivery of the Vessel before the Delivery Date as set forth in Section 17.1.
- (e) *Delays.* The Contract Price may be reduced as a consequence of a Delivery delay as set forth in Article 17.
- (f) *Currency Exchange Rate Adjustment.* The Parties acknowledge that Builder may be required to pay certain of its Subcontractors or Suppliers in currencies other than United States Dollars and that currency exchange rates may fluctuate during the period between the Effective Date and the date on which Builder may be required to make such payments. The Parties further acknowledge that the Contract Price is based upon the currency exchange rates set forth below, or as otherwise in effect as of the Effective Date (such currency exchange rates, the “*Base Rates*”):

CURRENCY	US DOLLAR AMOUNT	FOREIGN CURRENCY AMOUNT
Euro (EURO)	\$1	€0.86
Korean Won (KWON)	\$1	₩1,182.62
Norwegian Kroner (NOK)	\$1	Kr8.63

When Builder is required to make a payment under a subcontract required by the Work in a non-United States currency, if the exchange rate for such currency as quoted in The Wall Street Journal (<https://www.wsj.com/market-data/currencies/exchangerates>) differs from the Base Rate for such currency, then the Contract Price shall be adjusted accordingly. Builder shall prepare, and Builder and Owner shall execute, Change Orders pursuant to Article 10 on a quarterly basis reflecting such increases or decreases in the Contract Price.

- (g) Disruption Cost Adjustment. The Contract Price is based on the assumption that Builder will be required to [\*\*\*]

3.5 Spare Parts and Equipment. The Contract Price does not include the costs of spare parts or spare equipment. In the event that Owner wishes to procure spare parts or spare equipment from or through Builder, Builder will provide such spare parts or spare equipment on commercially reasonable terms, provided that such spare parts or spare equipment can reasonably be procured by Builder, in which case the Parties shall negotiate such procurement in accordance with Article 10.

#### **Article 4      PAYMENT**

##### 4.1 Installment Payments.

- (a) *Installment Payments*. Owner agrees to pay Contract Price for the Vessel to Builder in Interim Installment Payments correlating to the Stage of Completion schedule as set forth in Exhibit O.
- (b) *Stage of Completion Schedule to be [\*\*\*]*. The Parties intend that the Stage of Completion schedule is to be [\*\*\*]. In the event that as a consequence of changes in the Project Schedule or otherwise the payment milestones identified in Exhibit O no longer correspond to the stage of completion intended for the specific payment, the Parties shall execute an amendment to Exhibit O so that [\*\*\*].
- (c) *Failure to Pay First Installment*. In the event that Owner fails to pay the first Interim Installment Payment on the date of execution of this Agreement, Builder shall have the right to [\*\*\*]. In the event of [\*\*\*], the Effective Date of this Agreement shall be deemed to be [\*\*\*]. In no event shall Owner be required to [\*\*\*].

4.2 Notice of Stage Completion and Invoice. Builder shall give Owner written notice of the intended date of issuance of a relevant Stage Completion Certificate not more than [\*\*\*] or less than [\*\*\*] before issuance. The form of Stage Completion Certificate is attached as Exhibit C-1 to this Agreement. Builder shall tender to Owner each Stage Completion Certificate along with a Builder's Invoice in the form attached as Exhibit C-2 and with the appropriate Lien Release(s) as described in Section 4.6.

4.3 Owner's Right of Direct Payment for Major Equipment. Notwithstanding any other provision of this Agreement, following the occurrence and during the continuance of an event of default, Owner shall have the right, in its sole discretion, to pay supplier's invoices for Major Equipment directly upon written request to Builder. Builder shall credit the amount of any such direct payment to the next Interim Installment Payment due from Owner.

4.4 Payment on Invoices. Except for the first Interim Installment Payment, the Delivery Payment, and any Interim Installment Payment that is disputed and subject to resolution pursuant to Section 4.7, Owner shall make each Interim Installment Payment within [\*\*\*] of receipt of the relevant Stage Completion Certificate, Lien Release(s), and Builder's Invoice, each properly completed and executed. With respect to Interim Installment Payments disputed and resolved pursuant to Section 4.7, payment shall be due within [\*\*\*] of resolution of such dispute. With respect to the Delivery Payment, payment shall be due upon Delivery of the Vessel.

4.5 Stage Completion Certificates. Except for the first Stage of Completion, Builder shall furnish a Stage Completion Certificate for each Stage of Completion for the Vessel which shall state: (i) the stage of Work achieved; (ii) that the Work completed complies with the Contract Documents; and (iii) that, subject to payment by Owner therefor, there are no Liens upon the Vessel for labor, Materials or equipment created by Builder or any Subcontractor or Supplier. Each required Stage Completion Certificate shall be executed and certified by the President, Chief Financial Officer or Project Manager of Builder.

4.6 Removal of Liens. If any Lien has been asserted by any of Builder's Subcontractors or Suppliers against the Vessel, Owner shall not be obligated to make payment until such Lien is resolved. Confirmation of the absence of Liens against the Vessel shall be certified through the tender of Lien Release(s) in the form of Exhibit D-1 in favor of the Vessel and Owner executed by Builder.

4.7 Disputes of Stage Completion. Except for disputes arising during the final Stage of Completion, if Owner objects upon receipt of the Stage Completion Certificate on grounds that the pertinent stage has not been reached, the dispute will be submitted to a senior surveyor of the Classification Society, or if the Classification Society declines to address the dispute, the Joint

Surveyor (as defined in Section 26.3), whose decision as to achievement of the relevant stage will be final and binding.

4.8      Delivery Payment. Upon Delivery of the Vessel in accordance with Section 13.12, Owner shall pay Builder the Delivery Payment indicated in Exhibit O, subject to the following adjustments:

- (a)      plus any and all time and Material payments that have not been paid to date;
- (b)      plus any applicable State or Local Sales and/or Use Taxes, unless Owner has provided to Builder documents or copies of documents as may be required by applicable law to obtain a sales or use tax exemption (s);
- (c)      plus or less any changes in the Per Vessel Contract Price resulting from fully executed Change Orders that have not been paid or credited prior to Delivery;
- (d)      plus the value of any Builder-furnished stores on board at time of Delivery;
- (e)      plus any increases due as an incentive for early delivery of the Vessel in accordance with Section 17.1; and
- (f)      less any liquidated damages for delay that may have accrued in accordance with Article 17.

4.9      Reconciliation of Overpayment. If the amount of undisputed adjustments set out in Section 4.8 in favor of Owner is greater than the amount owed for the Delivery Payment, then Builder shall pay the difference to Owner at the time of Delivery.

4.10      Obligation of Delivery, Preservation of Rights.

- (a)      *Delivery Subject to Reservation of Rights*. In the event of any dispute between the Parties at the time of Delivery, the Parties shall reserve their respective rights regarding the dispute and Builder shall make, and Owner shall accept, Delivery of the Vessel subject to such reservations.
- (b)      *Deposit of Disputed Amounts*. Furthermore, in the event of any such dispute, Owner shall deposit any disputed amounts in escrow, and Builder shall deliver the Vessel with the disputed amount to be listed as an exception to Delivery on the Protocol of Delivery and Acceptance.
- (c)      *No Withholding of Delivery*. Without limitation to the foregoing and for the sake of clarity, Builder shall not withhold or otherwise delay or encumber the Delivery of the Vessel and Owner shall not withhold acceptance of the Vessel

or the payment of any undisputed amounts as determined pursuant to Section 4.8.

- (d) *No Set-Off.* Further, in the event of such dispute with regard to the Vessel, Builder shall not withhold work, equipment, or materials, or otherwise seek to exercise any claimed right of set-off, in connection with any other work being done by Builder under any other agreement with Owner or Owner's Affiliates.

4.11 Method of Payment. All payments due hereunder shall be made by wire transfer unless otherwise specified herein. Builder and Owner shall furnish their respective wire transfer instructions to the other Party.

4.12 Interest on Late Payments. Any late payments shall accrue interest at a rate per annum equal to [\*\*\*]. In the event [\*\*\*] is no longer available from [\*\*\*], the Parties agree to negotiate in good faith to designate a replacement bank's interest rate to serve as [\*\*\*].

4.13 Payments Without Prejudice. Any payments made by Owner shall be without prejudice to, or waiver of, any of Owner's rights, defenses, claims, and remedies arising under or related to the Vessel and this Agreement.

4.14 Contract Price Adjustments Due to Change Orders.

- (a) The Contract Price shall be adjusted by any change or adjustment agreed by the Parties in accordance with Article 10.
- (b) If a change in the Work shall result in an agreed increase or decrease in the Contract Price, all remaining Interim Installment Payments shall take account of such increased or decreased Contract Price. Without limitation to the foregoing, in addition, the first such Interim Installment Payment that becomes due after the subject increase or decrease shall be adjusted by an amount equal to the product of (x) the amount of the increase or decrease in the Contract Price and (y) the aggregate percentage of the Contract Price required to be paid on or before the due date of such Interim Installment Payment.
- (c) For any change in the Work giving rise to an increase or decrease in the Contract Price where the value of such change has not been determined or agreed by the Parties as of the time of the next Interim Installment Payment, then for purposes of determining the Interim Installment Payment and subject to a final determination, the value shall be estimated as the midpoint between Builder's and Owner's independent estimates of the increase or decrease in the

Contract Price due to such change or adjustment, unless Owner and Builder agree otherwise.

- (d) When the value of such change or adjustment is finally determined, the Parties shall adjust the Contract Price and the remaining Interim Installment Payments to reflect any variance between the estimate and the final determination.

4.15 Payment Upon Dispute Resolution. In the event that an increase or decrease in the Contract Price due to change or adjustment under Article 10 below is not mutually agreed prior to Delivery of the Vessel to Owner, appropriate adjustment of any overpayment or underpayment shall be made promptly upon final determination in accordance with Article 27 as to the increase or decrease and any adjustments required to the Contract Price shall be paid or refunded within [\*\*\*] of the date of such final determination.

## **Article 5            TAXES, DUTIES, AND TARIFFS**

5.1 Builder's Taxes. Builder shall be responsible for and pay all taxes, assessments, duties, or fees assessed against Builder, the Shipyard, or Builder's other facilities as a result of Builder's performance under this Agreement, employment of workmen, and procurement of Materials, supplies, equipment, or labor, including local, state, and federal taxes, federal import duties, workers' compensation, social security or old age benefits of any nature, unemployment tax, and any other similar taxes, charges, assessments and contributions of any kind now or hereafter payable in connection with the performance of the Work. Builder shall indemnify and hold Owner harmless from any and all liability and expense by reason of Builder's failure to pay such taxes, charges, assessments, and contributions.

5.2 Owner's Taxes.

- (a) Owner shall be responsible for all taxes, duties, and documentation fees arising from the purchase, sale, use, and documentation of the Vessel. Owner shall indemnify, defend and hold Builder harmless from and against any and all liability and expense by reason of Owner's failure to pay such taxes, duties or fees.
- (b) However, Owner intends to avoid or minimize the imposition of any state sales or use or other taxes with respect to the Vessel to the greatest extent lawfully possible. Builder agrees that it will not pay any such taxes, duties, or fees, or concede any liability for the foregoing, without prior written notice to Owner. Owner may seek any lawfully available exemption(s), such as the "removal" exemption, the "interstate or foreign commerce" exemption, the "resale"



exemption, or (subject to Section 13.15) taking Delivery of the Vessel in a location outside the boundaries of the State of construction.

5.3 Optimization of Tax Treatment. The Parties shall cooperate to optimize the tax treatment for all matters within the scope of this Agreement and shall provide each other with all such documentation as may be reasonably requested to assist the requesting Party in seeking lawful exemptions, exclusions, or reductions of taxation, subject to redactions for confidential information and attorney-client privilege.

5.4 Tariffs and Duties. In the event that any Materials procured for use in the Work are or shall become subject to actual or potential tariff or duties, the Parties shall individually and cooperatively take such actions as reasonably appropriate to optimize the tariff and/or duty treatment of such Materials and to seek lawful exemptions, exclusions, or reductions of tariffs and duties on such Materials.

5.5 New Tariffs and Duties Excluded. Without limitation to Section 5.4, the Contract Price expressly excludes all tariffs and duties imposed by the United States on any materials, supplies, or equipment used in connection with the Work that were not in effect on the Effective Date ("New Tariffs and Duties"). To the extent New Tariffs and Duties are imposed upon and paid by Builder, any increase in costs to Builder shall be for the account of Owner and shall be documented through a Change Order prepared in accordance with Article 10. New Tariffs and Duties shall not include a change in the amount or rate of a tariff or duty in effect on the Effective Date, but shall include a change in law or change in interpretation of an existing tariff or duty becoming applicable to any materials, supplies or equipment used in connection with the Work.

## Article 6      FINANCIAL SECURITY

6.1 Performance and Payment Bonds. [Reserved.]

6.2 Builder's Letter of Credit.

- (a) To secure Builder's obligations and Owner's remedies under this Agreement (as may be limited in accordance with Article 19), including the timely and proper performance of the Work hereunder as stipulated in the Contract Documents, Builder shall, within [\*\*\*] of the Effective Date of this Agreement, deliver to Owner an irrevocable stand-by letter of credit (the "Letter of Credit") in a form, and issued by [\*\*\*], or any other bank, in each case reasonably acceptable to Owner in the amount of [\*\*\*]. Builder shall bear all charges or costs associated with the Letter of Credit.

- (b) Owner shall be entitled to draw up to the full amount of the Letter of Credit (i) [\*\*\*]; (ii) [\*\*\*], or (iii) [\*\*\*], unless at least [\*\*\*] prior to such expiration, Builder has delivered to Owner a replacement Letter of Credit that satisfies the provisions of this Section.

6.3 Builder's Corporate Parent Guarantee. To further secure Builder's obligations and Owner's remedies under this Agreement (as may be limited in accordance with Article 17), including the timely and proper performance of the Work hereunder as stipulated in the Contract Documents, Builder shall, not later than [\*\*\*] after the Effective Date, cause [\*\*\*] (the "Guarantor"), to execute and deliver to Owner a guaranty agreement (the "Builder's Corporate Parent Guarantee") in favor of Owner, in the form attached hereto as Exhibit J, to guaranty the performance of Builder's obligations under this Agreement.

6.4 Remedy in Event of Failure to Provide Security. If any security required from Builder under this Article has not been issued and delivered to Owner when due by Builder, then Owner shall have the option thereafter, in its sole option and absolute discretion, to terminate this Agreement in its entirety upon [\*\*\*] prior written notice, unless Builder shall deliver the required security to Owner prior to the end of such [\*\*\*] period.

6.5 Financial Reports. Builder shall provide Owner with:

- (a) [\*\*\*] of the Guarantor and its subsidiaries, on a consolidated basis, accompanied by an opinion thereon of [\*\*\*] or other independent certified public accountants of recognized standing that such statements present fairly, in all material respects, the consolidated financial position of the companies being reported, within [\*\*\*] of the close of each fiscal year;
- (b) [\*\*\*] of the Guarantor and its subsidiaries, on a consolidated basis, certified, as appropriate, by a senior financial officer of the Guarantor on behalf of such entity, as fairly presenting, in all material respects, the consolidated financial position of the companies being reported, within [\*\*\*] of the close of each fiscal quarter (other than the fourth fiscal quarter of each fiscal year); and
- (c) Builder shall provide [\*\*\*] of the Builder on a stand-alone basis to the extent there is any material difference in such unaudited quarterly financial statements and the unaudited quarterly financial statements required by Subsection (b) above with respect to any fiscal quarter.–

6.6 Use of Funds. The Letter of Credit shall be available to Owner up to the amount of [\*\*\*]. Owner shall be entitled to draw on the Letter of Credit in an amount equal to [\*\*\*]; provided that Owner shall account for the amount Owner is entitled to retain for such purposes.

Subject to Article 19, Builder shall remain liable for any deficiency and Owner shall be liable to return to the Builder any excess over its allowable damages.

6.7 Termination of the Letter of Credit. Upon [\*\*\*], or the earlier termination of this Agreement pursuant to Article 18, the requirement for Builder to provide the Letter of Credit shall cease to apply and the Letter of Credit shall be cancelled upon [\*\*\*]. Upon such cancellation, Owner shall reasonably cooperate with Builder with respect to the return, release or cancellation of the Security, including the execution and delivery of all documentation necessary to accomplish the foregoing.

**Article 7 DESIGN OWNERSHIP AND RESPONSIBILITY**

7.1 The Basic Design.

- (a) The Basic Design of the Vessel, as set out more fully in the Specifications and Contract Documents, is based on the Ulstein Design & Solutions B.V. GLDD Subsea Rock Installation Vessel design created by Ulstein Design & Solutions B.V. (the “*Designer*”) and provided by Owner to Builder as documented in the Specifications.
- (b) The Basic Design has been reviewed in accordance with the requirements of the Regulatory Authorities by the Classification Society and has been found to be satisfactory for Classification and in compliance with Coast Guard requirements for a vessel enrolled in the Alternative Compliance Program, as required by the Specifications, subject to certain outstanding comments of the Classification Society, as listed in Exhibit L.
- (c) Those outstanding comments of the Classification Society applicable to the Designer are listed in Exhibit L. Owner shall require the Designer to resolve the outstanding comments applicable to the Designer and [\*\*\*] at Owner’s cost, with any delay in resolving such comments and [\*\*\*] to be subject to the Permissible Delay provisions of Section 16.1(b). Builder shall be responsible to resolve all other comments identified by the Classification Society. Each Party shall provide reasonable assistance to the other Party as may be requested for the resolution of comments of the Classification Society.

7.2 Alternative Compliance Program. Within [\*\*\*] of the Effective Date, Builder shall enter into a contract for classification of the Vessel with the Classification Society. Builder shall provide to Owner a copy of the executed contract for classification, upon which Owner shall apply to enroll the Vessel into the Alternative Compliance Program. The Parties shall cooperate with

regard to the foregoing contract for classification, application for the Alternative Compliance Program, and any related requirements of the Regulatory Authorities.

7.3      Owner's Warranty of Right to Use Basic Design. Owner certifies and warrants that Owner has all necessary licenses and rights to possess, modify and otherwise use, and the right to sublicense to Builder the use of the Basic Design and any related design documentation furnished by Owner or by Owner's engineering, design, marine architect, or other subcontractors, including the Designer, during the performance of the Work hereunder for the creation of the Detailed Design and the Production Design and for the construction of the Vessel. Owner hereby grants to Builder and its Subcontractors and Suppliers a royalty-free sublicense to use the Basic Design and related design documentation in the performance of the Work. Owner shall be responsible for all costs and charges of the Designer for the use of the Basic Design and related design documentation in the performance of the Work.

7.4      Detailed Design and Regulatory Approvals. Upon execution of this Agreement, Builder shall have the sole and exclusive responsibility to carry out all additional detailed engineering and design work required for the performance of the Work and the final approval by the Regulatory Authorities of the design and the construction of the Vessel as required by the Specifications (the "Detailed Design"). Builder shall be responsible for obtaining the approvals of the Regulatory Authorities as required for the completion of the Work, subject to the provisions of Section 7.1.

7.5      Rights to Detailed Design. The Detailed Design prepared by or for Owner in connection with the Basic Design or the Work and any Intellectual Property they embody is and shall remain the sole and exclusive property of Owner and may be used by Owner without restriction. The Detailed Design expressly excludes the Production Design.

7.6      Production Design. Builder shall have the sole and exclusive responsibility to develop the detailed construction documentation of the Vessel, including construction modeling, lofting, numerical control code and/or tapes, and detail construction documentation including but not limited to Material lists, all as required for Builder to complete the Work in accordance with the Contract Documents (the "Production Design").

7.7      Rights to Production Design. The Production Design is and shall remain the sole and exclusive property of Builder, subject to the provisions of this Section and Section 7.9. Owner may not use the Production Design directly or indirectly, disclose the Production Design to any third party, or permit any third party to use or disclose the Production Design in the construction of a vessel for Owner by any party other than Builder, except as may be required in the exercise of Owner's rights in the event of a Default under Article 18.

7.8 No Transfer of Intellectual Property Rights in the Basic Design. Nothing in this Agreement shall be deemed to transfer any right of title or ownership of any Intellectual Property of Owner to Builder or to limit Owner's right to market, license, sell, use, modify, or construct vessels from such Intellectual Property. Builder agrees that as between Builder and Owner the Basic Design is and shall remain the property of Owner and may not be disclosed by Builder to any third party or used directly or indirectly by Builder or any third party in the construction of a vessel by Builder for any party other than Owner, unless otherwise permitted as provided in Section 7.9.

7.9 No Misappropriation of Basic Design.

- (a) *No Misappropriation of Basic Design.* In no event is Builder permitted or licensed to use the Basic Design or any of Owner's Intellectual Property to construct or have constructed on its behalf any additional vessel or part thereof except as otherwise expressly agreed by Owner at its sole option and absolute discretion, in writing. Builder will act reasonably to ensure that it does not use any of Owner's Intellectual Property, including the Basic Design, in the construction of a vessel for a third party, without Owner's prior written consent.
- (b) *Builder's Actions in Event of Apparent Misappropriation of Basic Design.* In the event that a third party presents a design to Builder that is, or reasonably appears to be, based upon the Basic Design, if Builder intends to bid on or consider the construction of such design for such third party, then Builder shall promptly follow the procedure below:
  - (i) Request the third party to confirm in writing that it has all necessary licenses and rights to possess and use the design it has presented to Builder, or independently verify that the third party design is not based upon Owner's Intellectual Property and the Basic Design; and
  - (ii) Notify Owner of the third party design and of the third party's representations or Builder's verification, with due regard to Builder's confidentiality obligations to the third party.
  - (iii) Subject to Subsections (i) and (ii), Builder's right to proceed with a vessel construction project for a third party shall not be limited by this Agreement or in any other way constrained.
- (c) *Survival of Section.* The provisions of this Section shall survive the termination of this Agreement for a period of [\*\*\*].

7.10 Builder's Disclaimer of Liability for Basic Design. Builder shall not be liable for any errors, omissions, defects, or failures in the Basic Design, as provided by Owner to Builder, and Builder makes no representations or warranties with respect to the Vessel's speed, tonnage, cargo capacity, displacement, or fuel consumption; provided, however, that nothing herein shall relieve Builder from liability for any errors, omissions, defects, or failures in the performance of the Work, including the workmanlike performance of Builder's obligations under Article 9. Any errors, omissions, defects, or failures in the Basic Design as provided by Owner to Builder that require changes to the Work shall be addressed in accordance with the provisions of Section 10.6(b).

## **Article 8      PROJECT SCHEDULE AND COORDINATION**

8.1 Builder's Obligation to Establish and Maintain Project Schedule. Builder shall establish a baseline project schedule and maintain throughout the performance of the Work a detailed current project schedule and execution plan (the "Project Schedule") in electronic form including embedded logic and data for completion of the Work by the Delivery Date. The Project Schedule shall remain a living document and shall include all significant activities in the design, procurement, construction, and testing and commissioning phases of the Vessel, including the work of Material Subcontractors or Suppliers. Unless otherwise agreed, Builder shall maintain the Project Schedule from a Level 4 up. Builder shall update the baseline project schedule if at any time the Project Schedule no longer shows the status of the Work with reasonable accuracy.

8.2 General Project Schedule Requirements. The Project Schedule shall be a resource loaded schedule that includes a critical path analysis and reflects resource requirements. More specifically, the Project Schedule shall clearly show the critical path and the schedule's calendar shall be set up to include the number of Working Days per week, the number of shifts per Day, and non-Working Days and holidays. The format of the Project Schedule shall be subject to Owner's approval, such approval not to be unreasonably withheld, conditioned or delayed.

8.3 Specific Project Schedule Requirements. Without limitation to Sections 8.1 and 8.2, the Project Schedule shall include the following elements and features:

- (a) the dates for commencement and completion of the Work, reflecting an overall project execution strategy;
- (b) description of the Work in sufficient detail to allow weekly progress measurement;
- (c) all significant activities in the design, procurement, construction, and testing and commissioning phases of the Vessel, including the work of Subcontractors

or Suppliers, including requests and deadlines for required vendor-furnished information;

- (d) sequencing and dependencies of all activities, and all predecessors and successors to each activity, including vendor-furnished scheduling information and constraints;
- (e) activity durations, including start and finish dates;
- (f) all points of interface between Owner and Builder, including instances where performance of the Work depends upon Owner, such as dates on which Owner information and Owner Furnished Equipment (“*OFE*”) are required;
- (g) scheduling float for component activities and total float;
- (h) due dates for engineering design deliverables;
- (i) required-in-yard dates for all major and long-lead (exceeding [\*\*\*] from order to delivery) Materials and equipment;
- (j) minimum leads or lags;
- (k) no constraints of major milestones, including Vessel Delivery;
- (l) the expected surveying and testing schedule for the various components of the Work; and
- (m) the dates of expected completion of each Stage of Completion task set forth in Exhibit O.

8.4 **Project Schedule.** Builder has provided to Owner a preliminary schedule attached hereto as Exhibit H. Not later than [\*\*\*] following the Effective Date, Builder shall provide Owner with access to a detailed schedule for the Work to be accomplished during the period between the Effective Date and Builder’s development of the Project Schedule as required Sections 8.1 to 8.3. Not later than [\*\*\*] following the Effective Date, Builder shall provide Owner with access to the detailed Project Schedule prepared in accordance with the requirements of Sections 8.1 to 8.3.

8.5 **Maintenance of Project Schedule.** Builder shall actively maintain the Project Schedule on an ongoing basis. Builder shall update the status of the Work in advance of each weekly status meeting held in accordance with Section 8.10 unless otherwise agreed in writing.

8.6      Updates to Project Schedule. Updates to the Project Schedule and/or the status of the Work shall include each activity's actual start date, actual finish date, and the remaining duration of the Work, and shall reflect the effect of Change Orders, if any.

8.7      Modifications to Build Strategy. Following the availability of the initial Project Schedule as provided in Section 8.4, Builder may, in the exercise of Good Shipbuilding Practice, propose a modification to the build strategy of the Vessel that alters the predicates to milestone payments from those set forth in this Agreement, but such modification shall be permitted only upon prior written approval by Owner, such approval not to be unreasonably withheld, conditioned or delayed.

8.8      Record of As-Built Project Schedule. Builder shall provide to Owner an as-built Project Schedule in electronic format for the permanent project record not later than [\*\*\*] following Delivery of the Vessel.

8.9      Remedy in Event of Failure to Maintain Project Schedule. If Builder fails to provide access to the initial detailed Project Schedule by the date required in Section 8.4, or if Builder thereafter fails to actively maintain the Project Schedule as required by this Article 8, Owner shall notify Builder of such failure in writing. If Builder fails to remedy such failure within [\*\*\*], then Owner shall have the option thereafter, in its sole option and absolute discretion, to terminate this Agreement in its entirety. Such [\*\*\*] period shall not include time lost due to causes that are beyond the reasonable control of Builder and that could not be mitigated by commercially reasonable actions of Builder.

8.10     Weekly Status Meetings. The Parties' representatives shall meet (in person, by conference call, or by other mutually agreed electronic means), not less frequently than weekly, unless otherwise agreed, to discuss the status of the Work and relevant issues, which may include, but need not be limited to:

- (a)      the status and progress of the Work, including a two (2) week "look ahead" with regard to planned activities and expected progress;
- (b)      S-Curve charts (to be reviewed monthly), including Baseline S-Curve, Target S-Curve, and Actual S-Curve showing percentage of completion;
- (c)      any information needed by Builder, Owner, or the Classification Society to advance the Work;
- (d)      pending Change Orders;
- (e)      the integration of OFE;



- (f) any Owner concerns with the maintenance of the Project Schedule;
- (g) test and inspection schedules;
- (h) commissioning plans;
- (i) Trials; and
- (j) any other matters pertinent to construction and Delivery of the Vessel.

8.11 Monthly Status Report. Builder shall provide Owner with a written report on the status of the Work on a monthly basis (a "Monthly Status Report"), in a form as reasonably agreed between the Parties. The Monthly Status Report should generally include, but need not be limited to:

- (a) *Overview*: An overview of the status of the Work;
- (b) *Timeline*: A summary timeline of progress to date and work planned for the following month at the grand block level (or such other level as otherwise mutually agreed);
- (c) *PTS/PD Support Status*: A summary of the status of Procurement Technical Specifications, purchase descriptions, and purchase orders issued in support of the Work;
- (d) *RFI Support Overview*: A summary of the requests for information that have been fielded by Builder in connection with the development of the Detailed Design;
- (e) *Deliverables Status and Projected Schedule*: A summary of the status of the Work and Project Schedule projections;
- (f) *Class Overview and Comment Tracking*: A summary of the status of the regulatory review of the Work by the Regulatory Authorities, including the status of submittals;
- (g) *Weight Tracking*: A summary of the weight budget and tracking in connection with the Vessel;
- (h) *Contract Discrepancies and Solutions*: A summary of the status of any outstanding contract disputes and closures of disputes;
- (i) *Change Order Status*: A summary of the status of the Change Order process, including data concerning Change Orders proposed and resolutions;

- (j) *Risk Register*: The status of identified risks that may pose a major or significant impact to the Project Schedule;
- (k) *Safety*: A summary of the safety statistics for the project;
- (l) *Project Progress*: A collection of relevant visual data sets such as graphs S-Curves, etc.;
- (m) *Other Matters*: A summary of any other matters that may be relevant to or affect the progress of the Work; and
- (n) *Conclusion and Look-Ahead*: A summary of the status of the Work and Builder's focus for the next month.

8.12 Intent of Weekly Status Meetings and Monthly Status Reports. Without limitation to the provisions of this Agreement that may require written notices, approvals, or other communications, the Parties mutually intend that they shall communicate as needed to facilitate the performance of the Work. The intent of the weekly status meetings and Monthly Status Reports is to facilitate those communications. The Parties may agree to provide greater or lesser details in connection with their communications under Sections 8.10 and 8.11 as the Parties determine to be appropriate.

8.13 Actions in Event of Progress Issues.

- (a) *Builder Notice of Insufficient Progress*. If the actual progress of the Work in comparison to the Project Schedule indicates that the Work is not substantially on schedule as set out in the Project Schedule and that the completion of the Vessel by its Delivery Date is in jeopardy, then Builder shall promptly notify Owner and provide a proposed revision to the Project Schedule with such adjustments to sequencing or allocation of resources as may be commercially reasonable to overcome such delays and complete the Vessel by the Delivery Date or as soon thereafter as reasonably practicable.
- (b) *Owner Notice of Progress Concerns*. If Builder fails to provide such notice and take such action, then Owner shall notify Builder of its concerns (without prejudice to any of Owner's other rights pursuant to this Agreement).
- (c) *Builder Revision of Project Schedule*. In such case, within [\*\*\*] thereafter, Builder shall provide to Owner a revised Project Schedule showing such adjustments as necessary to complete the Vessel by the Delivery Date or as soon thereafter as reasonably practicable.

- (d) *Builder Actions to Recover Project Schedule.* Builder shall take such as actions as are reasonably practicable to ensure that the Vessel be completed by the Delivery Date or as soon thereafter as reasonably practicable, including adding additional shifts or engaging additional workers or Subcontractors as necessary to ensure the Work is completed in such time.
- (e) *Owner's Right to Request Measures to Recover Project Schedule.* Owner has the right to request Builder to carry out such measures as set out in Subsection (d) as Owner deems necessary to ensure the Vessel is delivered by the Delivery Date or as soon thereafter as reasonably practicable. Upon such request, Builder and Owner shall consult with regard to appropriate measures to recover the Project Schedule, and Builder shall take such measures as requested by Owner unless Builder establishes that such measures are not commercially reasonable or are unlikely to be effective. If as a result of such measures taken pursuant to this Subsection, the Vessel is delivered in advance of the Delivery Date and the costs of measures requested under this Subsection are greater than the early delivery bonus provided under Section 17.1, then such additional costs shall be for the account of Owner.
- (f) *Recovery of Time Lost to Permissible Delays.* If Owner determines that acceleration of the Project Schedule is necessary to make up time lost due to Permissible Delays, Owner may request Builder to add additional shifts, engage additional workers or subcontractors, or take other actions for the purpose of overcoming such Permissible Delays. Upon such request, Builder and Owner shall consult and Builder shall take such measures as the Parties determine may be commercially reasonable and likely to be effective. The added costs of any such actions shall be for the account of Owner. Such additional costs shall be directed and documented as a Change Order in accordance with Article 10.

8.14 Remedy in the Event of Insufficient Progress. Without limitation to the provisions of Section 8.11, if the Project Schedule shows that the actual date on which the Vessel will be delivered will be more than [\*\*\*]later than the Delivery Date, such delay shall be an event of default and Owner shall be permitted to terminate this Agreement pursuant to the provisions of Section 18.2, subject to Builder's right to cure such event of default as provided therein.

## **Article 9      PROSECUTION OF THE WORK**

9.1 Builder's Obligations. Builder shall provide at no charge other than the Contract Price all things required for the complete performance of the Work, except for such items as are

specifically required by the Contract Documents to be furnished by Owner. If Owner exercises its one or more of its options for any of the items identified in the Specification as "Options," then such items shall be included in the Work, subject to a Change Order agreed in accordance with Article 10.

9.2 Allocation of Costs of Services and Stores.

- (a) Except where expressly stipulated to the contrary, Builder shall provide and pay for all labor, overtime labor, standby labor, supervision, design, engineering, planning, construction, methods, Materials and supplies (including fuel, lubricating oils, hydraulic oils, greases, fresh water), tools, equipment, procurement, transportation, taxes, permits and fees and all other facilities and services necessary to complete the Vessel for the Contract Price by the Delivery Date.
- (b) Owner shall take over and pay for, at Builder's documented cost, reasonable amounts of all stores remaining aboard the Vessel at the time of the Vessel's Delivery, excluding fresh water, but including fuel oil, diesel oil, lubricating oil, hydraulic oil, and greases.

9.3 Time is of the Essence. Builder expressly understands that time is of the essence for Owner and that an essential basis of consideration for this Agreement and a fundamental reason why Builder's proposal has been selected and that Owner has entered into this Agreement with Builder is the representation by Builder and the commitment made by Builder in this Agreement that, except for Permissible Delays excused in accordance with the terms of this Agreement, Builder can and will perform the Work and can and will deliver the Vessel by the Delivery Date.

9.4 Builder's Duty of Diligence.

- (a) *Builder to Proceed with Diligence.* Without limitation to Section 9.3, Builder shall at all times prosecute the Work diligently to ensure its completion in full accordance with the Contract Documents within the time required for delivery of the Vessel by the Delivery Date or as soon thereafter as reasonably practicable.
- (b) *Builder to Furnish Sufficient Workers and Resources.* Builder shall at all times furnish sufficient numbers or amounts of properly skilled and qualified workers, acceptable Materials and equipment and adequate services and tools and equipment necessary for the Work and the delivery of the Vessel by the Delivery Date or as soon thereafter as reasonably practicable. Builder shall not fail to allocate all necessary and available resources as reasonably

practicable to the timely completion of the Work to prevent or alleviate any actual or potential delay under any circumstances.

- (c) *Builder to Prioritize Completion.* Builder expressly agrees it will not take, or fail to take, any action based on an assumption that the payment of liquidated damages would be more economically advantageous for Builder than the cost of allocating necessary available resources to the construction of the Vessel that, if so allocated would prevent or lessen any delay in the delivery of the Vessel.
- (d) *Owner's Right to Equitable Relief.* Builder acknowledges and agrees that a breach by Builder of its obligations under this Section 9.4 would present irreparable harm to Owner and Owner shall have the right to seek equitable relief, including an injunction, to prevent or rectify any such breach by Builder.

9.5 Builder's Standard of Performance Generally. Builder shall perform all of the Work in a good and workmanlike manner and in accordance with the Classification Society rules and standards set forth in the Specifications, Contract Documents, and the requirements of the governing Regulatory Authorities. Builder shall require its Subcontractors and Suppliers to perform to the same standard of performance.

9.6 Builder's Standard of Engineering Performance. Builder shall provide all engineering and design services required for the performance of the Work utilizing Good Shipbuilding Practice and the generally accepted standard of care, skill, and diligence as would be provided by an engineering or naval architecture firm experienced in supplying engineering or naval architecture services nationally to the United States' maritime industry.

9.7 Builder's Duty Regarding Certification and Sealing. Builder shall ensure that all Work requiring certification shall be duly certified, and that all designs requiring sealing shall be sealed by professional engineers licensed and properly qualified to perform such engineering services in the appropriate jurisdiction.

9.8 Builder to Furnish. Builder is responsible to provide a suitable location at its Shipyard for the full and timely construction of the Vessel together with all labor, management, tools, equipment, Materials, services, and fees necessary for the construction, completion, inspection, and certification of the Vessel. Without limitation to the foregoing or to the provisions of Section 9.9, Builder also agrees to furnish a suitable location for the storage of OFE in accordance with Good Shipbuilding Practice, including without limitation the protection of OFE from the elements, theft, and damage as may be required by the nature of specific OFE.

- (a) Exhibit B attached hereto identifies all OFE and vendor furnished information for OFE, together with the fair market value of such equipment and appurtenances for use in determining the policy value of Builder's Risk Insurance under Section 15.1(c). The cost of Builder's Risk Insurance for OFE (for values shown in Exhibit B) shall be for the account of and paid by Builder. If Owner requests Builder to place additional insurance, the cost to Owner will be Builder's incremental cost for such additional insurance. OFE and vendor furnished information shall be delivered at Owner's risk (as between Owner and Builder), free of cost and expense, including the payment of any applicable sales, use or excise taxes, to Builder at Builder's Shipyard in the proper condition ready for installation in or on the Vessel by the dates set forth in Exhibit B.
- (b) Builder shall receive, store, protect, and insure all OFE to be incorporated into the Vessel delivered to the Shipyard, provided, always, that Builder shall not be responsible for quality, efficiency and/or performance of any OFE. Upon receipt of such OFE at the Shipyard, Builder shall inspect for, and note on the carrier's receipt, any shipping damage that is reasonably ascertainable upon a reasonable examination of the item, material, and packaging, and check that the item or material conforms to the applicable Bills of Lading with regard to item description and quantity.
- (c) Upon delivery of each item of OFE to the Shipyard, as soon as possible, but not later than the following Working Day, Builder shall notify Owner's Representative of such delivery. Upon such notification, Owner's Representative shall, at Owner's expense and risk, inspect such OFE.
- (d) Builder shall have the duties of a bailee with respect to all OFE in Builder's custody, and Builder shall be liable to Owner to the extent of available insurance coverage for any damage to, or loss of, any OFE while in Builder's custody howsoever occurring, excepting from acts or omissions of Owner.
- (e) Provided that Builder has complied with the obligations of this Section 9.9, Builder shall not be liable for any damage to an item of OFE for loss or damage arising prior to delivery to the Shipyard.
- (f) Owner shall be responsible for providing Builder accurate values of all OFE upon Builder's request.

- (g) To facilitate installation or loading by Builder of OFE in or on the Vessel, Owner shall furnish Builder with the necessary specifications, plans, drawings, instruction books, manuals, test reports and certificates for such OFE as may be required by the Regulatory Authorities or otherwise.
- (h) Owner shall, without charge to Builder, engage the representatives of the manufacturers of the OFE to provide supervision during the installation of the OFE, without limitation to Builder's responsibilities under this Agreement.
- (i) Owner shall be responsible for the testing and commissioning of the OFE, and Builder shall provide reasonable assistance in connection with such testing and commissioning.
- (j) If Builder discovers any error in the necessary specifications, plans, drawings, instruction books, manuals, test reports and certificate with respect to any OFE, Owner shall be responsible for the cost and schedule impacts of any modifications to the Vessel made necessary as a result of such error for Builder to be able to install and test such OFE.
- (k) Any and all of the OFE shall be subject to Builder's reasonable right of rejection, as and if such OFE may be found to be unsuitable or in an improper condition for installation. However, if so requested by Owner, Builder may propose a Change Order to repair or adjust the OFE pursuant to Article 10, without prejudice to Builder's other rights hereunder.
- (l) Should Owner fail to deliver any of the OFE within the time designated, the period of such delay in delivery shall be a Permissible Delay under Article 16, to the extent that such delay affects the Delivery Date and the effects of the delayed delivery cannot reasonably be avoided or otherwise recovered in the Project Schedule. In addition, Owner shall be responsible to reimburse Builder for all losses and damages incurred by Builder by reason of such delay in delivery of the OFE, with such Permissible Delay and reimbursement documented as a Change Order pursuant to Article 10. If a delay in delivery of any of the OFE exceeds [\*\*\*], then Builder shall consult with Owner regarding proceeding with construction of the Vessel without installation of such late OFE in or on the Vessel, subject to agreement pursuant to Article 10, and Owner shall not refuse to take delivery of the Vessel for failure to install such late OFE. Such process shall be without prejudice to Builder's other rights as provided herein.

- (m) Builder shall not be deemed to have extended to Owner any warranty as to OFE other than the warranty of workmanship in the installation thereof, as set forth in Article 14.

**9.10 Compliance with Regulatory Authorities.**

- (a) *Builder to Comply with Regulatory Authorities.* Subject to Article 21, Builder will comply with, and construct the Vessel to comply with, all applicable requirements of governing Regulatory Authorities in effect as of the Effective Date.
- (b) *Regulatory Fees.* All fees and charges of a Regulatory Authority, including fees and charges for inspection of the Work shall be for the account of and paid by Builder.
- (c) *Changes Necessary for Compliance.* If after the Effective Date Builder becomes aware that any portion of the Contract Documents do not comply with any rules, regulations, or requirements of the Regulatory Authorities, Builder shall promptly notify Owner of such non-compliance. Any alterations in the Work required to correct such non-compliance shall be addressed through a Change Order in accordance with Section 10.6.

**9.11 Owner's Review of Plans and Drawings.**

- (a) *List of Plans and Drawings.* Within [\*\*\*] after the Effective Date, the Parties shall mutually agree upon a list of the plans and drawings for the Vessel to be submitted by Builder to Owner and the submittal schedule therefor. Builder shall submit electronic copies of such plans and drawings in English to Owner and Owner shall have [\*\*\*] to review and comment.
- (b) *Owner Review of Plans and Drawings.* Owner shall, within such [\*\*\*] period, return to Builder electronic copies of such plans and drawings with Owner's comments, if any. In the event that Owner shall fail to return such plans and drawings to Builder within such [\*\*\*] period, Owner will be deemed to have no comments on such plans and drawings.
- (c) *Builder to Respond to Comments.* Builder shall respond to Owner's comments within [\*\*\*] of receipt. In the event that Builder shall fail to respond to Owner's comments within such [\*\*\*] period, such comments shall be deemed to have been accepted.



- (d) *Changes to Plans and Drawings.* Any request by Owner for changes to any plans and drawings, other than those changes required to comply with the Specifications, Good Shipbuilding Practice, or requirements of the Regulatory Authorities in effect as of the Effective Date, shall be handled as a request for a Change Order in accordance with Article 10.
- (e) Any plans which subsequent to Owner's comments require alteration shall be resubmitted to Owner for comments, if any, on the alteration and its impact in accordance with this Section 9.11.

9.12 Installation of Materials.

- (a) *Builder to Install Materials.* Builder will provide and/or install and commission all Materials shown in the Specifications, including the installation of OFE, except those items which the Specifications state are to be installed by Owner or its separate contractors.
- (b) *Reasonable Assistance with Other Installations.* With respect to such items to be installed by Owner or its separate contractors, Builder shall provide reasonable assistance with respect to such installation in accordance with the Contract Documents and the Project Schedule.

9.13 Installation and Commissioning of Equipment. Builder shall allow sufficient time and working area to allow the timely and safe installation and commissioning of all equipment and the loading of supplies prior to the Vessel's departure voyage.

9.14 Builder is an Independent Contractor. The Parties agree and understand that Builder is an independent contractor in the performance of the Work, maintaining complete control of its workers, the worksite, and its operations. Neither Builder nor anyone employed, engaged, or subcontracted by Builder shall become an agent, representative, servant, or employee of Owner in the performance of the Work or any part of it. Subject to Owner's rights upon the occurrence and during the continuation of an event of default under Article 18, Owner shall have no right or authority to supervise, direct, or instruct Builder's personnel or to bind Builder in any way to any third party.

9.15 No Agency. This Agreement does not convey any agency authority on Builder, and Builder shall have no authority whatsoever to act on behalf of Owner or to bind Owner in any way, except as may be provided expressly elsewhere in this Agreement or in separate documents for specified purposes. Builder expressly agrees that it shall not attempt or purport to act on behalf of Owner without Owner's prior express written authorization.

9.16 **Builder's Right to Subcontract.** Builder shall be responsible for completion of the Work as a whole. Builder may allocate certain portions of the Work to be performed under subcontracts or similar agreements between Builder and Subcontractors, and Owner shall have no liability for such subcontracts or similar agreements. Nothing contained in the Contract Documents shall create any contractual relationship between Owner and any Subcontractor.

9.17 **Designation of Subcontractors and Suppliers; Makers List.**

- (a) *Makers List.* A list of acceptable Suppliers and Subcontractors for Materials and services to be provided in connection with the Work is set forth as an addendum to the Specifications (such list, the "*Makers List*").
- (b) *Sole Acceptable Subcontractors or Suppliers.* In the event that the Makers List identifies a sole acceptable Subcontractor or Supplier, and such Subcontractor or Supplier presents pricing or terms different from those advised to Builder by Owner prior to the Effective Date and set forth in Exhibit N, then the Parties shall consult and cooperate to resolve the discrepancy through communications with the selected Subcontractor or Supplier, selection of an alternative Subcontractor or Supplier, or such other actions as may be mutually agreed. Any change in the price shall be for the account of Owner, and the Parties shall execute a Change Order to document any such difference in price, impact on the Project Schedule, or change in terms.
- (c) *Builder to Select Suppliers and Subcontractors.* Builder shall have the right to select any of the Suppliers and Subcontractors listed on the Makers List. Builder may also select additional Suppliers and Subcontractors not listed on the Makers List, subject to Owner's prior written approval, such approval not to be unreasonably withheld, conditioned or delayed. Builder shall be responsible for the price and schedule impacts and any technical deficiencies of any Builder-selected Supplier or Subcontractor.
- (d) *Notice of Selection of Suppliers and Subcontractors.* Builder will advise Owner of individual Suppliers and Subcontractors selected by Builder at least [\*\*\*] prior to any order being placed.
- (e) *Owner's Right to Designate Suppliers and Subcontractors.* If Owner requests Builder to order any Materials or services from a Supplier not selected by Builder from the Makers List, or to use any Subcontractor not on the Makers List, Builder will take reasonable steps to comply with such request, but Builder may refuse to comply with the request unless Owner assumes the responsibility for possible technical deficiencies, if any, compared with the

Builder-selected Supplier or Subcontractor. Any change in cost or impact on the Project Schedule resulting from such designation by Owner after the Effective Date shall be made in accordance with Article 10.

9.18 Subcontractor and Supplier Lien Waivers. Builder shall require all Subcontractors and Suppliers to waive any claims of liens against the Vessel and Materials through its standard subcontracting and purchasing terms and conditions.

9.19 Purchase Technical Specifications. Builder shall furnish to Owner at its request a copy of the specifications issued to Material Suppliers and Material Subcontractors in connection with the Work (the "Purchase Technical Specifications"). Builder shall also cooperate with Owner as requested with regard to the identification and specifications of spares.

## **Article 10      CHANGE ORDERS**

10.1 Owner's Right to Change Orders. Owner reserves the right to make any deductions from or additions to the Work on giving due notice in writing to Builder. Builder shall be obligated to accept and perform any such change to the Work proposed by Owner unless such change to the Work is not reasonably feasible or would adversely impact Builder's production schedule [\*\*\*] or any other vessels under contract to be constructed by Builder.

10.2 Effect of Change Orders. The cost of any such changes and the impact of such changes are to be agreed upon in advance by Owner and Builder, and added to, or deducted from the Contract Price. If any such change will affect the Delivery Date of the Vessel, the Delivery Date shall be adjusted accordingly.

10.3 Change Order Process.

- (a) *Preparation of Change Order.* Builder shall submit a Change Order form to Owner setting out a statement of the amount of increase or reduction to the Contract Price on a firm fixed-bid basis, and any adjustment to the Delivery Date as a consequence of the proposed changes to the Work. The Change Order form to be utilized is attached hereto as Exhibit F. Builder shall provide documentation of the basis of its price for the Change Order and the proposed adjustment to the Delivery Date. Builder shall not implement any proposed changes to the Work until the Change Order form is approved by Owner in writing.
- (b) *Approval of Change Order.* Owner shall reply to the proposed Change Order within [\*\*\*], noting its agreement or disagreement. If Owner fails to state its disagreement in writing within [\*\*\*], then Owner shall be deemed to have

approved the Change Order and Builder shall note that deemed approval on the Change Order form.

- (c) *Execution of Change Order.* Each approved Change Order shall be signed by both Parties, numbered, and made a part of this Agreement. Copies of the executed Change Order form shall be exchanged by the Parties.

10.4 Project Schedule Updates Due to Change Order. Builder shall document the changes to the Work required by an approved Change Order in the Project Schedule as soon as possible and shall perform the changes to the Work subject to the applicable provisions of the Contract Documents as promptly as possible unless otherwise provided in the Change Order.

10.5 Change Order Upon Agreed Changes. When Owner and Builder agree on adjustments in the Contract Price and/or adjustments of the Delivery Date, or Modifications in the Specifications or any Contract Documents or otherwise reach agreement upon the adjustments, such agreement shall be effective only upon execution of an appropriate Change Order, signed by the authorized signatories identified in Section 23.3.

10.6 Builder's Right to Propose Change Orders.

- (a) *Change in Rules or Regulations of Regulatory Authority.* Builder may propose a change in any part of the Work due to an Announced Regulatory Amendment or other change in the regulations or rules of a Regulatory Authority after the Effective Date that may require changes to the Contract Documents. If the Parties are unable to agree to the necessity for such change, or the amount of adjustments to the Contract Price or Delivery Date, Builder may proceed with such change, pursuant to the procedure set out in Section 10.7.
- (b) *Errors in the Basic Design.* Builder may propose a change in any part of the Work made necessary to complete the Work due to any error, omission, defect, or failure in the Basic Design as provided by Owner to Builder. If the Parties are unable to agree to the necessity for such change, or the amount of adjustments to the Contract Price or Delivery Date, Builder may proceed with such change, pursuant to the procedure set out in Section 10.7.
- (c) *Improvements to the Work.* Builder may also propose a change in any part of the Work that in Builder's judgment would result in an improvement to the Work or its performance, or for any other reasonable purpose. If Builder wishes to make such a proposal, Builder shall give Owner written notice in the form of a proposed Change Order. Builder may not make any changes to the proposed Work until the Parties reach agreement on the Change Order in

accordance with Sections 10.3 through 10.5, except in an emergency endangering life or property, in which case Builder may proceed.

10.7 Change Order Disputes. If Owner and Builder cannot agree on whether certain matters constitute a Change Order, whether a Change Order is required under Section 10.6(a), or the amount of the adjustments in the Contract Price and/or the Delivery Dates of a Change Order proposed under Sections 10.3 or 10.6, then such dispute shall be submitted to resolution pursuant to Article 27 and: (i) in the case of a Change Order under Section 10.6(a), Builder may proceed with the Change Order; and (ii) in all other cases, Owner shall have the right to direct in writing that Builder proceed with the Change Order, subject to Section 10.1. Without prejudice to each Party's position in such dispute, in each such instance, the work or other matters contemplated by the proposed Change Order shall be done on the following basis:

- (a) the Contract Price will be provisionally adjusted on a time and materials basis in accordance with Section 10.8;
- (b) the Project Schedule will be provisionally adjusted based upon Builder's estimate of the impact of the Change Order on the Delivery Date;
- (c) the dispute concerning the adjustments to the Contract Price and/or the Delivery Date shall be noted on the Change Order form; and
- (d) The provisional adjustments in the Contract Price and/or the Delivery Date are temporary and shall be superseded by the final adjustments in the Contract Price and/or the Delivery Date as determined in accordance with the dispute resolution procedures in Article 27.

10.8 Charges on Time and Materials Basis. Any Work performed on a time and materials basis under this Agreement shall be done at a standard rate of [\*\*\*] for all such work. Materials and third-party costs shall be charged at [\*\*\*].

10.9 Change Order Time and Charges – All Included.

- (a) *All Costs Included.* Each approved Change Order shall be deemed to include all direct and indirect costs, including delay, local disruption, cumulative disruption, cumulative impact, acceleration, and like costs associated with, resulting from, or incidental to an approved Change Order, including all such costs that may be incurred by Builder, its Subcontractors and its Suppliers.
- (b) *Waiver of Claims for Additional Costs or Delays.* Builder agrees that upon its acceptance of an approved Change Order, Builder shall be deemed to waive and release all claims against Owner for any and all additional costs or delays

to the Delivery Date, including without limitation costs and delays based on any legal or equitable theory such as cumulative disruption or cumulative impact theories, resulting from an approved Change Order, subject to Article 16.

10.10 Payment for Change Orders. Except as otherwise agreed or provided in this Section, payment for Change Orders shall be done in accordance with Section 4.14. For Change Orders done on a time and materials basis pursuant to Section 10.8, the accrued charges shall be paid concurrently with the next Interim Installment Payment, subject to reasonable documentation of the time and materials expended by Builder.

10.11 Requirement for Executed Change Order. No change in the Work under this Agreement, whether by way of alteration or addition to or deletion of the Work, shall be the basis of a change to the Contract Price or a change in the Delivery Date unless and until such alteration or addition or deletion has been authorized by a Change Order executed and issued in accordance with and in strict compliance with the requirements of this Article and the Contract Documents. In no event shall Builder be obligated or authorized to perform any changes to the Work upon verbal or written direction of Owner which is not in conformity with the requirements of this Article and this Agreement.

## **Article 11      OWNER'S REPRESENTATIVE**

11.1 Designation of Owner's Representative. Owner shall designate in writing a Person to represent and act on behalf of Owner at the Shipyard as Owner's Representative. Such designation shall state any limits on the authority granted by Owner to Owner's Representative. Owner's Representative may be assisted by assistants or consultants notified in writing by Owner to Builder, who shall be subject to the same access rights and restrictions as Owner's Representative in connection with their duties at the Shipyard. Owner's Representative may designate in writing one or more deputies to act on behalf of Owner's Representative during any period that Owner's Representative may be unavailable.

11.2 Builder to Provide to Owner's Representative. During the whole of the period of construction until Delivery of the Vessel or termination of this Agreement, whichever comes first, and for a reasonable period of time thereafter to permit the winding up of activities, Builder shall provide to Owner's Representative facilities and access to inspect the Vessel, the Material, workmanship, plans, tests, and movements, wherever located. Builder shall provide a suitable office for up to six (6) of Owner's personnel equipped with customary office fittings, including a meeting table, a drawing table, desks, chairs, locking file cabinets, private telephone with voice messaging, private scanner, printer, copy machine, secure business-grade LAN or Wi-Fi internet connection, and heat and air conditioning; provided that long distance charges are to be billed to

Owner. During the testing and commissioning phase of the Work, Builder shall provide such suitable office space for up to a total of sixteen (16) of Owner's personnel. It is understood that a single office at the Shipyard that complies with the above requirements will satisfy the requirements to furnish an office under this Section 11.2 with respect to both the Initial Vessel and the ROFR Vessel.

11.3 Owner's Representative to Observe Shipyard Rules. Owner's Representative or Owner's other agents, contractors, and employees shall observe the rules and regulations prevailing at the Shipyard and Builders' Subcontractors' facilities, including, without limitation, all standard security, safety, and environmental policies and procedures, and also shall comply with all applicable federal, state, and local safety and environmental laws and regulations. Builder may deny access to the Shipyard or its Subcontractor's facilities to Owner's Representative or Owner's other agents, contractors, or employees, only if such Persons fail to comply with Builder's or such Subcontractor's health, safety and environmental policies or security requirements, have been previously denied access to the Shipyard or its Subcontractors' facilities for a safety, insubordination or similar incident, or otherwise unreasonably interfere with Builder's timely performance of the Work. In such an event, Builder shall promptly advise Owner, stating the specific cause(s), of the denial of access.

11.4 Owner's Representative to Have Access. Owner shall endeavor to assure that the Owner's Representative carries out such person's duties hereunder in accord with the normal shipbuilding practices of Builder and in such a way as to avoid any undue interference with the Work. Subject to Section 11.3, at any time during which the Work is being done on the construction of the Vessel, Owner's Representative shall be given free and ready access to the Vessel, its engines and accessories, and to any other place where the Work is being done, or Materials are being processed or stored, in connection with the Work, including the Shipyard, workshops, stores and offices of Builder, and the premises of Subcontractors of Builder who are doing the Work or storing Materials in connection with the Work.

11.5 Use of Builder's Equipment. With the exception of personal protective equipment as may be provided by Builder to visitors at the Shipyard, Owner shall obtain Builder's prior written agreement to the use by Owner's Representatives or Owner's other employees, officers, crew, subcontractors, or other persons acting on behalf of Owner, of any of Builder's or Subcontractors' equipment, tools, devices, apparatus or other personal property.

## **Article 12**

## **OWNER'S RIGHT OF INSPECTION**

12.1 Right to Examine the Work. Owner's Representative and Owner's other authorized agents shall be entitled to examine the Vessel and the Work during construction at the Shipyard and all other facilities used in the Work, at all reasonable times upon reasonable notice.

12.2 Testing Upon Installation. Upon installation of any of the Vessel's machinery, equipment and systems, Builder shall cause each item to be tested to ensure its proper operation. Materials and consumables necessary for operational testing, including but not limited to fresh water, fuels, oils, greases, filters, hydraulic fluids, shall be furnished by and for the account of Builder.

12.3 Prompt Inspection. All completed milestones of the Work and the workmanship and Material required under this Agreement shall be inspected promptly by Owner and promptly accepted or rejected in accordance with the Contract Documents. Failure to object will not prevent Owner from later identifying defects in accordance with the terms of the Warranty under Article 14.

12.4 Handover of Manuals and Equipment Information. Builder shall hand over to Owner user's manuals, calculations, drawings, recommended maintenance intervals and procedures, and recommended spares lists applicable to machinery, equipment, and systems as they are installed or as soon as possible thereafter to facilitate Owner's inspections and preparations for such machinery, equipment, and systems. Without limitation to the foregoing, Builder shall provide Owner with any standard commercially available operating and maintenance manuals with respect to all equipment installed in the Vessel in accordance with the quantities set forth in the Specifications.

12.5 Scheduling Tests and Inspections.

- (a) *Builder to Schedule.* Builder shall schedule for and carry out tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, ordinances, rules, regulations, or orders of Regulatory Authorities at appropriate times under the Project Schedule. Builder shall exercise reasonable efforts to schedule tests and, inspections between the hours of 7:00 am and 18:00 pm on workdays.
- (b) *Builder to Give Notice.* Builder shall give reasonable advance notice to Owner's Representative of the date, time and place of all tests, Trials, inspections, and approvals. For purposes of this Subsection, "reasonable advance notice" means:
  - (i) In the case of routine non-destructive testing carried out as part of the Work and reflected on the Project Schedule, Builder shall give at least twenty-four hours' prior notice to Owner's Representative;
  - (ii) In the case of other tests, Trials, inspections, and approvals at the Shipyard, Builder shall endeavor to give at least [\*\*\*] prior notice or as



otherwise agreed with Owner's Representative with regard to specific events or types of events;

(iii) In the case of Trials, tests, inspections, and approvals conducted away from the Shipyard, Builder shall endeavor to give at least [\*\*\*] prior notice.

(c) *Builder to Furnish.* Builder shall furnish Owner's Representative an electronic copy of test procedures, related drawings and technical data required to carry out the test or inspection in English.

12.6 Builder to Make Arrangements, Bear Costs. Unless otherwise provided, Builder shall make all necessary arrangements for such tests, inspections, and approvals, and shall bear all related costs, including the costs of fuels, lubricants, and consumable fluids used in the cleaning and testing of the Work. Builder and Owner each shall bear its own costs for participation in any tests or inspections.

12.7 Onboard Testing and Trial Procedures. Builder shall set out the onboard testing and trial procedures in cooperation with Owner. Builder shall give a list of inspection items to Owner for Owner's reference.

12.8 Regulatory Tests and Inspections. The necessary tests and inspections of the Vessel, its machinery, equipment, and outfitting as may be required by the Regulatory Authorities, or as otherwise agreed by the Parties, shall be carried out by the Regulatory Authorities as required throughout the period of construction. Owner's Representative shall have the right to attend such tests and inspections.

12.9 Owner's Waiver of Right to Attend. A failure by Owner to have Owner's Representative or other duly qualified agent present at tests, inspections, and approvals after due notice shall be deemed to be a waiver of Owner's right to attend such tests, Trials, and inspections.

12.10 Additional Testing.

(a) *Owner's Right to Require Additional Testing.* If Owner determines that portions of the Work require additional testing, inspection, or approval not included under Section 12.2, Owner will instruct Builder to make arrangements for such additional testing, inspection, or approval by an entity acceptable to Owner, and Builder shall give at least [\*\*\*] notice to Owner of when and where such tests, inspections, and approvals are to be made so that Owner may observe such procedures.

(b)      *Additional Costs and Delays.*

- (i)      Owner shall bear the initial cost of such additional tests, inspections, and approvals.
- (ii)      If any testing, inspection, or approval conducted by Builder as provided in this Section affirms that Builder's workmanship is acceptable under the Contract Documents, then if such testing, inspection, or approval caused a delay to the critical path, Builder shall receive an adjustment of the applicable Delivery Date, at Builder's option, for the Days of Work lost as a result of such testing, inspection, or approval.
- (iii)      If any testing, inspection, or approval conducted by Builder as provided in this Section 12.10 discloses that any methods or means of construction or material or workmanship are not acceptable under the Contract Documents, Builder shall reimburse Owner for the costs of such tests, inspections, and approvals, including the costs of related labor and facilities, and shall remedy the Work so as to comply with the Contract Documents.

12.11      Notice of Non-Conformity. In the event that Owner's Representative discovers any construction, Material, or workmanship that does not conform to the requirements of this Agreement and/or the Specifications, Owner's Representative shall give Builder a notice in writing of such non-conformity within [\*\*\*]. Upon receipt of such notice from Owner's Representative, Builder shall correct such non-conformity, unless Builder disputes the claimed non-conformity, in which case the matter shall be resolved in accordance with Article 26. If a claim of non-conformity is found to be unsubstantiated, then any delay caused by such claim shall be a Permissible Delay.

12.12      Acceptance of Work. If Owner's Representative does not notify Builder of any non-conformities in accordance with Section 12.11, such lack of notice shall be deemed an acceptance of the Work tested, tried, or inspected.

12.13      No Waiver of Builder's Contractual Obligations. Neither the observations of Owner, nor any failure by Owner to notify Builder of a non-conformity, nor acceptance of Work tested, tried, or inspected, shall be deemed to relieve Builder of its obligation to deliver the Vessel in compliance with the Contract Documents and to remedy any warranty defects identified during the Warranty Period in accordance with Article 14.

12.14      Certificates of Testing. Subject to any contrary provisions of the Contract Documents, Builder shall promptly obtain and deliver to Owner all required certificates of testing, inspection, or approval.

**Article 13****TRIALS AND DELIVERY**13.1 Trials.

- (a) *Factory Acceptance Tests.* Unless otherwise agreed, Builder shall attend Factory Acceptance Tests for long-lead time items as identified in the Makers List. Builder shall provide to Owner a schedule of Factory Acceptance Tests and, for any Factory Acceptance Tests selected by Owner as identified in the Makers List, shall at a minimum give notice of each such Factory Acceptance Test in accordance with Section 12.5(b).
- (b) *Dock Trials.* Upon completion of the Work on the Vessel, Builder shall launch, commission, and conduct Dock Trials of the Vessel at Builder's cost and expense to demonstrate that the Work and all the Vessel's machinery, equipment and systems operate in accordance with the Contract Documents.
- (c) *Sea Trials.* Upon satisfactory completion of Dock Trials, and satisfactory correction of any defective or non-compliant Work, Builder shall take the Vessel on Sea Trials immediately prior to its intended delivery to Owner to demonstrate that the Vessel and its machinery, equipment, and systems operate satisfactorily while the Vessel is in service and that Builder has constructed the Vessel in accordance with the Contract Documents and all applicable requirements of the Regulatory Authorities.
- (d) *Notice of Trials.* Builder shall give Owner not less than [\*\*\*] advance written notice of the scheduled dates for Trials.
- (e) *Owner Attendance at Trials.* Owner shall have the right to have a reasonable number of authorized representatives present at Dock Trials and Sea Trials, not to exceed [\*\*\*], unless otherwise agreed. Builder may, after due notice as described above, conduct Dock Trials and Sea Trials without the presence of the Owner's Representative or other authorized representative of Owner, provided that the Classification Society and the Coast Guard are present. If Owner fails to attend Dock Trials or Sea Trials, Owner shall be obligated to accept the results of such Trials on the basis of a certificate of Builder, confirmed by the Classification Society and the Coast Guard, stating the results of such Trials.
- (f) *Locations of Trials.* Builder shall secure any space necessary to carry out the Trials and operate any system of the Vessel as required herein.

- (g) *Weather During Sea Trials.* Sea Trials shall be carried out under weather conditions deemed favorable enough in the judgment of Builder, subject to approval by Owner. In the event of unacceptable weather on a date specified for Sea Trials, Builder shall conduct such Sea Trials on the first available day thereafter with suitable weather. If the weather during Sea Trials should become unacceptable and preclude the continuation of Sea Trials, then Sea Trials may be discontinued and resumed on the first favorable day thereafter, unless Owner agrees in writing to accept the Vessel on the basis of the Sea Trials conducted before such discontinuance. Any delay in Sea Trials caused by unacceptable weather shall be deemed a Permissible Delay pursuant to Article 16.
- (h) *Conduct of Sea Trials.* All expenses in connection with Sea Trials are for the account of Builder and Builder shall provide at its own expense the necessary crew to comply with conditions of safe navigation. Sea Trials shall be conducted in the manner prescribed in the Specifications, and shall prove fulfillment of the performance requirements for Sea Trials as set forth in the Specifications. The course of Sea Trials shall be determined by Builder.
- (i) *Preservation of Obligations.* The foregoing shall be without limitation or relief of any of Builder's obligations under this Agreement.

### 13.2 System Tests.

- (a) *Retained Amount Pending System Tests.* The Parties recognize that the Vessel's rock placement system ("Mission System") can only be effectively tested by loading a quantity of rock material into the Vessel's holds, transporting rocks from the holds to the fall pipe system, and discharging the rocks through the fall pipe system, and that such testing cannot be completed until after the time of Delivery when the Vessel has commenced work on its first rock placement project. Accordingly, Owner shall withhold from the Delivery Payment the sum of [\*\*\*] (the "Retained Amount") until such time as the Mission System has been tested (such tests, the "System Tests") and has been determined to have been installed by Builder in accordance with the Specifications. Owner agrees that the System Tests will be performed no later than [\*\*\*] following Delivery (excluding time lost due to warranty issues for which Builder is responsible). If the System Tests are not performed within such time, the Retained Amount shall be released, and any deficiencies in the installation of the Mission System shall be treated as a Warranty Defect under Article 14.

- (b) *Notice of System Tests.* Owner shall give Builder not less than [\*\*\*] notice of the scheduled date for the System Tests, and Builder shall have the right to attend the System Tests. Owner shall notify Builder of the results of the System Tests and of any defects in the installation of the Mission System within [\*\*\*] of the date of completion of the System Tests. If Owner does not notify Builder of a defect in the installation of the Mission System within such time, Owner shall pay the Retained Amount to Builder.
- (c) *In the Event of Defects Found During System Tests.* If Owner notifies Builder of any defects in the installation of the Mission System discovered during the System Tests, Builder (with Owner's reasonable cooperation) shall remedy such defects as soon as possible in accordance with Article 14. The period of time required for such repairs shall count as a delivery delay for purposes of determining liquidated damages payable to Owner pursuant to Article 17; provided, however, that in no event shall (i) the liquidated damages attributable to such defects in the installation of the Mission System discovered during the System Tests exceed the Retained Amount; (ii) the total liquidated damages exceed the maximum liquidated damages set forth in Section 17.7; or (iii) the period of time required for such repairs count as a delivery delay for purposes of determining Owner's termination right pursuant to Section 17.9. Upon satisfactory remediation of defects in the installation of the Mission System by Builder, Owner shall pay the Retained Amount to Builder, less any amount of liquidated damages incurred as a result of the Mission System installation repair delay. Builder shall not be responsible for the quality, efficiency, and/or performance of the Mission System except for its proper installation.

13.3 Regulatory Examinations During Trials. During any Trials, the Vessel may be examined or inspected by the Regulatory Authorities, Builder and Owner.

13.4 Owner Notice of Complaint Concerning Completion of Work. Owner shall notify Builder of any complaint as to the satisfactory completion of the Work promptly, and in any event within [\*\*\*] after conclusion of each Trial. Such notice shall be in writing and shall set forth the nature and character of the complaint in sufficient detail to fully apprise Builder of the basis of the complaint. If Builder agrees that Owner has a valid complaint as to the unsatisfactory completion of the Work, Builder shall resolve the complaint so that the Work conforms with the Contract Documents. When the inspection is complete and complaints, if any, are satisfactorily resolved, the Work and the Vessel will be complete and accepted in writing by Owner, subject to Owner's warranty rights under Article 14.

13.5 Builder Dispute of Complaint. If Builder disputes a complaint, the Parties shall seek to resolve the dispute through good faith discussions between the Parties. If such good faith discussions fail to resolve the issue, then the Parties shall resolve the matter in accordance with Article 27 of this Agreement.

13.6 Actions Pending Dispute Resolution. During the pendency of any such dispute, Owner shall have the right to give written direction to Builder to resolve Owner's complaint as directed by Owner. Upon such direction from Owner, Builder shall perform all Work necessary to resolve Owner's complaint in accordance with such written direction, and Owner shall provisionally pay Builder for such Work on a time and material basis as set forth in Section 10.8 and the Delivery Date for the Vessel shall be provisionally adjusted by the number of Days of the Work required by the compliance with Owner's written direction. If the resolution of the dispute determines that the disputed Work was not required by the Contract Documents, then such Work shall be deemed to have not been part of the Contract Price and Builder shall be entitled to retain such payment and the adjustment of the Delivery Date shall be deemed final.

13.7 Builder to Reimburse if Complaint Sustained. If the resolution of the dispute determines that the disputed Work was required by the Contract Documents, then such Work shall be deemed to have been part of the Contract Price and Builder shall be deemed to have been required to correct such Work at Builder's sole cost and expense, including costs of such additional testing and Trials as may have been required to complete such Work in accordance with the Contract Documents. In such case, Builder shall reimburse Owner for all such correction costs previously paid to Builder and pay any liquidated damages for delay for each Day by which the delivery of the Vessel was delayed past the Delivery Date.

13.8 Shipyard Contract Deficiency Report. Owner may provide to Builder a Shipyard Contract Deficiency Report in the form of Exhibit K as a means to communicate items that need to be addressed by Builder before Delivery and Acceptance.

13.9 Tender for Delivery, Punchlist. When the Vessel is tendered for delivery by Builder, Owner shall not reject the Vessel for minor non-conformities due to bad workmanship, use of defective Materials or failure to build the Vessel strictly in accordance with the Specifications and Contract Drawings, where such minor non-conformities do not make the Vessel unsuited to the service for which it was ordered and cannot reasonably be expected to affect the approval of the Vessel by Regulatory Authorities or the safety and operational activity of the Vessel, at Owner's reasonable discretion (such minor non-conformities, "Minor Non-Conformities"). Owner shall provide Builder with a listing of the Minor Non-Conformities prior to Delivery or as soon as possible thereafter.

13.10 Remedy of Minor Non-Conformities. Builder shall undertake in writing to remedy such Minor Non-Conformities as soon as possible and within the Warranty Period. Builder and Owner shall jointly schedule the correction of such remaining Minor Non-Conformities, to be completed as soon as possible. The value of such remaining Minor Non-Conformities may be negotiated by the Parties and may be reserved from the Delivery Payment, at Owner's option, pending satisfactory resolution of such Minor Non-Conformities.

13.11 Material Non-Conformities. Builder shall promptly correct all non-conformities other than Minor Non-Conformities (such other non-conformities, "Material Non-Conformities") and shall advise Owner of such completion. Owner shall have the opportunity to inspect the Vessel and confirm the correction of Material Non-Conformities prior to accepting the Vessel.

13.12 Delivery. When Builder has corrected all Material Non-Conformities and provided a written undertaking to correct Minor Non-Conformities in accordance with Section 13.10, Owner shall make the Delivery Payment in full as specified in Exhibit M. and shall sign and deliver a Protocol of Delivery and Acceptance, whereupon Builder shall deliver to Owner, at the Shipyard or such other location as mutually agreed, title and possession to the Vessel free and clear of all Liens and encumbrances, excluding any Liens or encumbrances created or suffered to be created by or through Owner or any of its Affiliates or any of their subcontractors or suppliers, together with certificates and documents required pursuant to Section 13.13.

13.13 Certificates Due at Delivery. Not later than the time of Delivery of Vessel, Builder shall execute and/or deliver to Owner the following certifications and other documentation:

- (a) A Builder's Certificate in the form of Coast Guard form CG-1261, in form and content as may be required to obtain Vessel documentation with a United States coastwise trade endorsement;
- (b) a Certificate of Completion and Delivery in the form of Exhibit E (including the documents listed therein as the Parties agree) stating:
  - (i) that the Vessel has been completed, subject to Minor Non-Conformities;
  - (ii) that all Trials and tests have been satisfactorily completed; and
  - (iii) that the Vessel complies with the Contract Documents and is free from known defects in Builder's Materials and workmanship;
- (c) final Lien Releases from Builder, in the form of Exhibit D-1;

- (d) the Detailed Design documentation pertaining to the Vessel as stipulated in the Specifications together with all drawings required to be submitted to Regulatory Authorities (in a native format or as otherwise agreed);
- (e) a Protocol of Delivery and Acceptance in the form set forth in Exhibit I and signed by Builder;
- (f) any other documents set forth in the Specifications; and
- (g) any other documents required by applicable law or by any Regulatory Authority for Owner to have the Vessel documented in Owner's name and to enable the Vessel to commence operations as a subsea rock installation vessel, inspected under 46 C.F.R. Subchapters I and L, with a United States coastwise trade endorsement (subject to Owner's qualification therefor), or as may otherwise reasonably be required by Owner (the foregoing documents collectively referred to as the "Delivery Documents").

13.14 Documentation of Completed Vessel. Owner shall be solely responsible for filing its application for documentation of the Vessel under the United States flag. Owner shall file a provisional application for documentation within [\*\*\*] of keel-laying of the Vessel, and shall provide to Builder the United States Official Number for the Vessel upon receipt from the Coast Guard.

13.15 Obligation of Delivery. Builder shall deliver the Vessel to Owner in accordance with this Agreement on or before the Delivery Date, free and clear of Liens as required by Section 4.6.

13.16 Location of Delivery. Delivery shall be made safely afloat at the Shipyard in Philadelphia, PA, or at a location mutually agreed by Owner and Builder. If Delivery is made at an offshore location, the costs of such offshore delivery will be the subject of a Change Order for the account of Owner.

13.17 Effective Date of Delivery. The date on which Owner delivers the Protocol of Delivery and Acceptance and Builder delivers the documents required by this Article shall be the date of Delivery for purposes of the start of the Warranty Period and the assumption of risk of loss of the Vessel by Owner.

13.18 Additional Work. Owner may also identify additional work and request Builder to provide estimates for such additional work. Such additional work shall be handled separately from the correction of Minor Non-Conformities and shall be considered service requests. Any additional work requested by Owner and agreed by Builder shall not delay Owner from accepting



the completion of the Vessel by execution of a Protocol of Delivery and Acceptance in substantial conformity with the form set forth as Exhibit I and shall not excuse or delay any payments due to Builder under this Agreement, except as otherwise agreed in writing by the Parties.

13.19 **Failure of Owner to Take Delivery.** If Owner: (i) does not undertake final inspection within [\*\*\*] of notice from Builder of satisfactory completion of Trials, or (ii) wrongfully refuses to accept Delivery within [\*\*\*] of completion of a final inspection (including correction by Builder of identified Material Non-Conformities, if any) by failing to make the Delivery Payment, failing to sign the Protocol of Delivery and Acceptance, or otherwise, then, in addition to Builder's other rights and remedies hereunder, Owner shall assume responsibility for payment of (or reimburse Builder promptly for) all reasonable charges incurred by Builder relating to the insurance, storage, and maintenance of the Vessel at Builder's Shipyard, pending completion of the Delivery process.

13.20 **Delivery Dispute.** In the event of a dispute between the Parties as to the condition of the Vessel for Delivery or the obligation of Owner to accept Delivery, all charges relating to the insurance, storage or maintenance of the Vessel during the dispute will be paid by Builder, with final responsibility for such costs to be determined by good faith discussion, mediation, and/or arbitration as provided in Article 27.

13.21 **Removal of the Vessel.** Owner shall take possession of the Vessel immediately upon acceptance of Delivery. Owner shall remove the Vessel from the Shipyard within [\*\*\*] of the Vessel receiving its Certificate of Inspection (whether temporary or permanent) from the Coast Guard. Such period shall be extended as necessary if sailing of the Vessel is delayed due to weather conditions, including storms or ice conditions. Regardless of any such delay, Owner shall assume responsibility for payment of (or reimburse Builder promptly for) all reasonable charges incurred by Builder relating to the dockage of the Vessel at Builder's Shipyard. Owner shall in any event remove the Vessel from the Shipyard within [\*\*\*] following acceptance of Delivery.

#### **Article 14**      **WARRANTY**

14.1 **Warranty.** Builder warrants that the Vessel shall be delivered in a seaworthy condition. Builder further warrants that the Work shall be done, and the Vessel constructed, in accordance with the Contract Documents and the Vessel shall be free from defects in workmanship and materials for a period of [\*\*\*] after the Delivery of the Vessel. If within [\*\*\*] after Delivery of the Vessel, any of the Work performed by Builder or its Subcontractors is found to be not in accordance with the requirements of the Contract Documents, Builder shall remedy such Work promptly after receipt of written notice from Owner to do so given in accordance with Section 14.5. This express warranty specifically excludes damages arising from normal wear and tear, casualty, misuse, neglect, alterations, unauthorized repairs, or minor cosmetic items, and finishes.

Builder shall not be deemed to have extended to Owner any warranty as to OFE other than the warranty of workmanship in the installation thereof as set forth in this Article 14.

14.2      Purchased Equipment Warranties.

- (a)      *Warranty of Other Equipment.* Any equipment purchased by Builder for installation in the Vessel shall be covered by Builder's warranty under this Article 14, except as expressly provided otherwise herein.
- (b)      *Disclaimer of Warranties for Equipment Warranted by Sole Acceptable Supplier.* Builder may, upon written notice to Owner, expressly disclaim any Builder's warranty for any equipment purchased by Builder from a sole acceptable Supplier pursuant to Section 9.17(b) for installation in the Vessel, but only if: (i) such equipment is covered by a manufacturer's warranty, (ii) such manufacturer's warranty is extended to Owner, and (iii) such manufacturer's warranty commences on the date of Delivery of the Vessel and is applicable for a period of at least [\*\*\*] after the Delivery of the Vessel.
- (c)      *Assignment of Manufacturer Warranties.* Upon expiration of the Warranty Period, and to the extent permitted by vendors and subcontractors, Builder agrees to transfer any guarantees or warranties supplied to it by Suppliers and Subcontractors where under the terms of such guarantees or warranties the vendor's or subcontractor's obligations extend for a period beyond the Warranty Period; provided that Builder may exclude from such assignment any rights against a Supplier or Subcontractor in favor of Builder for guarantee deficiencies and damages within the Warranty Period. Builder shall advise Owner of the terms of any such guarantees or warranties that are assigned to Owner.
- (d)      *Documentation.* Builder shall advise Owner of, and deliver the original documentation for, any manufacturer's warranties applicable to equipment or Materials furnished by Builder or its Subcontractors or Suppliers.
- (e)      *Cooperation on Manufacturer Warranty Claims.* Builder will use commercially reasonable efforts and will cooperate with Owner to enforce any claims with respect to manufacturers' defects in such equipment that may occur.

14.3      Paint Warranties. Builder warrants that it will purchase paint of good marine quality from Owner's exclusive paint supplier as identified on the Makers List, and that it will prepare the surface and apply the paint in accordance with the manufacturers' specifications and

recommendations. Except as specifically stated herein, Builder makes no warranty, expressed or implied, with respect to the fitness of the paint for any use or purpose.

14.4 Builder's Warranty Procedures. Builder has established certain standard warranty procedures for the handling of warranty issues in connection with work done by Builder for its customers, a copy of which is attached as Exhibit M ("Builder's Warranty Procedures"). Builder may not amend its Builder's Warranty Procedures as applicable to this Agreement except upon the prior written agreement of Owner, such agreement not to be unreasonably withheld, conditioned, or delayed. In the event of a conflict between the express terms of this Agreement and Builder's Warranty Procedures, this Agreement shall govern.

14.5 Warranty Notification. Within a reasonable time of becoming aware of a warranty claim, but in any event not later than [\*\*\*], Owner shall issue a Warranty Claim Notification to Builder substantially in the form of Exhibit G or such other form as Builder may request. In such Notification, Owner should provide as much information as reasonably available, including photographs where possible, in accordance with Builder's Warranty Procedures.

14.6 Builder's Warranty Obligation. Subject to Section 14.10, Builder shall repair or replace any defects in its Work that are discovered within the Warranty Period, provided Owner has complied with its written notice obligations. Builder shall use its commercially reasonable best efforts to effect warranty repairs or replacements without necessitating that the Vessel be removed or prevented from commercial service. Builder's warranty obligation under this Section 14.6 includes any work necessary to permit access to the site on the Vessel for warranty repairs or replacements, including but not limited to draining of pipes, cleaning of spaces to make them accessible, marine chemist's certificates including gas free certificates, and hot work.

14.7 Cooperation in Support of Warranty Actions. Without limitation to any other provision of this Article 10 or Builder's Warranty Procedures, Owner shall cause the Vessel to be taken to the location of the warranty repairs or replacements under this Article 14, ready in all respects for such warranty repairs or replacements, at Owner's cost, risk, and responsibility. Owner shall reasonably cooperate with Builder to facilitate such warranty repairs or replacements.

14.8 Warranty Manager. Builder shall designate a Warranty Manager for the Vessel at least [\*\*\*] prior to Delivery of the Vessel. The Warranty Manager shall be familiar with the Work and all Builder's Suppliers, vendors and/or Subcontractors. Upon receipt of a Warranty Notification, the Warranty Manager will take all reasonable steps to resolve the claim. Without limitation to the foregoing, the Warranty Manager shall work with Owner's Representative in: (i) understanding the nature of any warranty claim; (ii) coordinating remedies with Builder or Builder's Supplier or Subcontractor; and (iii) assisting to coordinate payments on any third-party vendor or Subcontractor work.

14.9 Warranty on Repaired or Replaced Work. This warranty shall extend to likewise warrant any replaced or repaired Work through the Warranty Period or for an additional [\*\*\*] period from the date such replacement or repair of the Work is completed, whichever comes later, but in any event a period not to exceed [\*\*\*], provided that the replacement or repair is accomplished by Builder or Builder's Supplier or Subcontractor.

14.10 Notice of Vessel Location. In conjunction with the notice required under Section 14.5, Owner shall give reasonable notice to Builder of the Vessel's location and the relevant operational issues to enable the Parties to plan cooperatively for the inspection of the warranty claim and necessary repairs and replacements. Builder may forward or supply replacement parts or materials to the Vessel, unless forwarding or supplying thereof to the Vessel would impair or delay the operation or working schedule of the Vessel.

14.11 Repairs On-Site at Vessel Location. Where the geographical distances and/or operational issues involved make the return of the Vessel to the Shipyard for repairs or replacements under this warranty impractical, Builder may, at its option, inspect such alleged defect(s) and make the necessary repairs or replacement on site at the Vessel's location.

14.12 Owner's Right of Repair.

- (a) *Builder Unable or Unwilling to Make Timely Repairs.* If Builder advises that it cannot or will not be able to make warranty repairs on-site in an expedient manner, or if Builder fails to carry out such inspection, repairs or replacement within a reasonable time, Owner shall have the right to effect the necessary repairs or replacements at other available facilities, and Builder shall reimburse Owner for the costs of such repairs in accordance with this Section 14.12.
- (b) *Owner's Notice to Builder.* In the event that Owner proposes to cause the necessary repairs or replacements to be made to the Vessel at any other shipyard or works than the Shipyard, Owner shall as soon as possible give Builder notice in writing of the time and place such repairs or replacements will be made.
- (c) *Builder's Right of Verification.* Builder shall have the right to verify by its own representative(s) the nature and extent of warranty defects identified by Owner, provided that Builder's exercise of such right shall not cause delays to the Vessel or impair its operations or working schedule. After Builder completes or waives such verification, Builder shall promptly advise Owner in writing of its acceptance or rejection of the defects as being covered by the Warranty under this Agreement.

- (d) *Builder's Payment or Reimbursement.* Upon Builder's acceptance of the defects as justifying remedy under this Article 14, or upon resolution of a dispute regarding warranty coverage in accordance with the provisions of Article 27, Builder shall, at its election, pay directly for such repairs or replacements, or alternatively reimburse Owner the costs of such repairs or replacements, subject to the limitations in Subsection (g).
- (e) *Builder Failure to Take Action on Warranty Claim.* Subject to Article 27, if Builder fails to take action to resolve a warranty claim within [\*\*\*] of written notice of such claim by Owner as provided pursuant to Section 14.5, then Owner shall have the right to correct, or procure the correction by a qualified third party contractor, of such warranty claim and Builder shall be liable for the commercially reasonable costs of the correction of such warranty claim, subject to Subsection (g).
- (f) *Urgent Warranty Repairs.* In the event of a warranty claim issue that poses a safety hazard or prevents the Vessel from operating, Owner's notification to Builder under Section 14.5 may inform Builder that the matter is urgent. In such case, Owner may exercise its right to initiate repairs pursuant to Subsection (a) without delay, subject to Builder's option to carry out or take over the necessary repairs, provided that Builder is able to effect such repairs as quickly as Owner or Owner's contractors.
- (g) *Limitation on Reimbursement.* Notwithstanding any other provision of this Section, except in the case of urgent warranty repairs conducted pursuant to Subsection (f), Builder's liability for reimbursement to Owner under this Section shall not exceed the lesser of the reasonable cost of making the same repairs or replacements in the Shipyard (including the Shipyard's standard docking or drydocking charges), or alternatively the amount such repairs or replacements would cost as calculated on the time and material rates basis as set forth in Section 10.8.

14.13 Costs of Surveys, Transportation. Unless otherwise agreed, the cost of any survey occasioned by a warranty claim, as well as the cost of transporting service Persons and parts to the Vessel to make needed repairs in connection with such warranty claim, shall be borne as follows:

- (a) by Builder in the event that the defect, flaw, or repair is determined to be covered by the express warranty described in this Agreement, pursuant to Article 27; or.

- (b) by Owner in the event that the defect, flaw, or repair is determined to be not covered by the express warranty described in this Agreement, pursuant to Article 27.

14.14 Guarantee Engineer.

- (a) *Builder's Right to Appoint Guarantee Engineer.* Builder shall have the right, at its option and cost, to appoint a reasonably professionally and medically qualified engineer to act as Builder's representative observe the operation of the Vessel and its systems to evaluate the quality of the Work and the proper operation of the Vessel by Owner's personnel (such engineer, the "Guarantee Engineer") for such portion of the Warranty Period as Builder may decide.
- (b) *Cooperation with Guarantee Engineer.* Owner and its employees shall fully cooperate with the Guarantee Engineer in the performance of the Guarantee Engineer's duties as Builder's representative of Builder on board the Vessel. Owner shall accord the Guarantee Engineer treatment comparable to a Chief Engineer or auditor and shall provide the Guarantee Engineer with accommodations and subsistence at no cost to Builder or the Guarantee Engineer.
- (c) *Release of Claims for Injury to Guarantee Engineer.* Prior to the Guarantee Engineer going on board the Vessel, Builder and the Guarantee Engineer shall first execute an agreement confirming that the Guarantee Engineer shall, at all times and in all respects, be deemed to be an employee of Builder and not in any respect an employee or borrowed servant of Owner. The agreement shall further provide a release, waiver, hold harmless agreement, and indemnification of Owner's Group (as defined below) against damages for any personal injuries, death, or property loss incurred by the Guarantee Engineer on board the Vessel or otherwise in connection with the Guarantee Engineer's service in connection with the Vessel, except for personal injuries, death, or property loss shown to have been caused by the gross negligence or intentional torts of Owner, its subcontractors, or their employees or agents (including Owner's Representative) while acting within the scope of their employment or engagement.

14.15 LIMITATION OF WARRANTIES. THE WARRANTY EXPRESSLY PROVIDED IN THIS ARTICLE 14 IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR THAT THE VESSEL'S MATERIALS OR SERVICES ARE FIT FOR ANY PARTICULAR PURPOSE OR USE, AND THE REMEDIES PROVIDED HEREUNDER ARE OWNER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY AND ARE SPECIFICALLY IN LIEU OF ALL OTHER REMEDIES OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL, EXCEPTING FRAUD AND INTENTIONAL MISCONDUCT.

**Article 15**      **INSURANCE**

15.1 Builder's Insurance Obligation. At any and all times during the term of this Agreement, Builder shall at its own expense maintain, with an insurance company or companies authorized to do business in the state in which Work is to be performed and with a minimum rating by A.M. Best Company and/or Standard & Poor's of A minus / VIII or equivalent or otherwise reasonably acceptable to Owner, insurance coverages of the kind and in the minimum amounts as follows:

- (a) *Workmen's Compensation Insurance* including occupational disease and coverage under the United States Longshoremen's and Harbor Worker's Compensation Act, such insurance to cover all benefits provided by the applicable Act, also Employer's Liability Insurance extended to include coverage for Maritime Employer's Liability (i.e., Jones Act, Death on the High Seas Act, and transportation, wages, and maintenance and cure) with minimum limits of [\*\*\*].
- (b) *Commercial General Liability Insurance* with an endorsement specifically covering the liability assumed by Builder under this Agreement or evidence of other forms of insurance of contractual liability that covers the exposures of this Agreement, [\*\*\*] with minimum limits of [\*\*\*], subject to an aggregate limit of [\*\*\*] in the period of insurance for Products Liability.
- (c) *Builder's Risk Insurance* [\*\*\*]. Such policy or policies shall be subject to the following provisions:
  - (i) [\*\*\*].
  - (ii) [\*\*\*].
  - (iii) [\*\*\*].
  - (iv) Builder shall place Builder's Risk on the Vessel prior to the start of keel-laying for the Vessel.

- (v) Builder shall provide property insurance naming Owner as an additional insured and loss payee covering the Work and all Materials (including OFE) at the Shipyard for their full insurable value for the period of Work until Builder's Risk insurance becomes applicable.
- (d) *Marine Vessel Insurance* with respect to any vessels owned or bareboat chartered by Builder used in conjunction with Builder's operations, including Hull & Machinery, Protection & Indemnity (P&I) and Pollution cover as described more fully below:
- (i) *Hull & Machinery* per American Institute Hull Sections (amended for the vessel operations at the Shipyard) or equivalent to the fair market value of the Vessel. Any references to "other than owner" or other owner limitations to be deleted by endorsement to the policy as respects the naming of Owner as an additional assured.
- (ii) *P&I cover* per P&I form SP 23 or equivalent (amended for the vessel operations at the Shipyard) with a minimum limit of [\*\*\*]. [\*\*\*].
- (iii) *Pollution Insurance* per Water Quality Insurance Syndicate (WQIS) or equivalent pollution cover with a minimum limit of [\*\*\*] and a USCG Certificate of Financial Responsibility ("*COFR*").
- (e) *Pollution Coverage for Vessels* under Repair, Construction or Modification per WQIS policy wording, inclusive of Builder's responsibility for pollution liability with a minimum limit of [\*\*\*].
- (f) *Bumbershoot or Excess Liabilities cover* providing excess liability coverage above the primary liability coverages noted above with a minimum limit of [\*\*\*], subject to an aggregate limit of [\*\*\*] in the period of insurance for Products Liability. To the extent limits above this [\*\*\*] minimum limit are purchased by Builder, such additional limits shall also cover Owner as an additional insured with the same provisions as noted for the [\*\*\*] minimum limit.

## 15.2 Endorsement of Policies.

- (a) [\*\*\*]. Prior to commencing the Work, each Party shall procure, from each of its insurers in respect of risks assumed under this Agreement, a written and enforceable [\*\*\*].



- (b) *Builder's Policies to be Primary, Exceptions.* Builder agrees that its policies shall be primary in all cases, except cases in which liabilities result directly from the acts or omissions of Owner's Representative or Owner's separate contractors. Any insurance that may be carried by Owner shall be excess over and above the amount recoverable under the policies of Builder, except cases in which liabilities result directly from the acts or omissions of Owner's Representative or Owner's separate contractors. The policies of insurance procured by Builder shall acknowledge that such policies are primary, and that no pro-rata contributions are required by Owner or Owner's insurers, except cases in which liabilities result directly from the acts or omissions of Owner's Representative or Owner's separate contractors.
- (c) *Worker's Compensation Policies.* Builder further agrees that its workers' compensation insurance policies shall be endorsed to designate Owner Group, as defined in Section 25.1, and their successors and assigns, as an alternate and statutory employer and shall be endorsed to provide a blanket and unrestricted waiver of its underwriters' or insurers' rights of subrogation against Owners' Group.

15.3 Certificates of Insurance. Before commencing Work or at such other reasonable times as the Parties may agree, Builder shall furnish Owner with Certificates of Insurance indicating (1) kinds and amounts of Insurance as required, (2) the names of the insurance company or companies providing the aforesaid coverages, (3) the effective and expiration dates of policies, (4) that Owner will be given [\*\*\*] written advance notice of any cancellation or material change in any policy, or in the event of non-payment of premiums, [\*\*\*] written advance notice, (5) that a waiver of subrogation endorsement has been attached to all policies, (6) that all Persons in Owner Group [\*\*\*], and (7) the territorial limits of all policies. All deductibles will be for the account of Builder.

15.4 Evidence of Owner's Insurance. Owner's Representative and its separate vendor representatives or contractors performing work on or in connection with the Vessel shall at all times be deemed agents or contractors of Owner. Owner's Representative and separate vendor representatives and contractors shall provide Builder with evidence of insurance (including Commercial General Liability, Automobile Liability and Longshoremen and Harbor Workers' Compensation coverage) [\*\*\*].

15.5 Application of Recovered Amount.

- (a) *Partial Loss:* In the event the Vessel is damaged by any insured cause prior to Delivery and such damage does not constitute an actual or a constructive,

agreed, arranged, or compromised total loss of the Vessel, Builder shall apply the amount recovered under the insurance policy referred to in Section 15.1(c) to the repair of such damage satisfactory to the Classification Society, and [\*\*\*].

(b) *Total Loss*: In the event that the Vessel is determined to be an actual or constructive, agreed, arranged, or compromised total loss:

(i) Subject to the agreement of the Parties as to the reasonable postponement of the Delivery Date, adjustment of the Contract Price and amendment of other terms of this Agreement as may be necessary, Builder will apply the amount recovered under the insurance policy referred to in Section 15.1(c) to the reconstruction of the Vessel and replacement of any damaged OFE and proceed in accordance with the terms of this Agreement, as amended by the Parties; or

(ii) If the Parties do not reach agreement to proceed pursuant to Subsection (ii), then Builder shall refund immediately to Owner without interest the amount of all installments paid to Builder under this Agreement and the value of all OFE in Builder's custody that was damaged or not returned to Owner from the amount recovered from insurers, whereupon this Agreement shall be deemed to be terminated and all rights, duties, liabilities and obligations of each of the parties to the other shall terminate forthwith except as expressly provided otherwise as surviving the termination of this Agreement..

15.6 Termination of Builder's Obligation to Insure. Builder's obligation to insure the Vessel hereunder shall cease and terminate forthwith upon Delivery thereof.

**Article 16**                      **FORCE MAJEURE AND PERMISSIBLE DELAY**

16.1 Permissible Delays. The Delivery Date for the Vessel shall automatically be extended by the amount of time equal to the duration of any Permissible Delay affecting the Work. A "Permissible Delay" shall mean a delay in the critical path of the Work that could not be avoided through the exercise of due diligence, due to causes which may include:

- (a) an event of Force Majeure;
- (b) the delayed delivery of necessary Owner-supplied information or documents, subject to Section 16.13;

- (c) the late delivery or non-delivery of OFE to Builder's custody or other delay caused by any default or omission on the part of Owner in carrying out any of its obligations under this Agreement;
- (d) delays agreed by the Parties in accordance with a Change Order pursuant to Article 10;
- (e) an unsubstantiated claim of non-conformity pursuant to Section 12.11;
- (f) a suspension of performance due to a payment default by Owner pursuant to Section 18.11; or
- (g) any other delay for which Owner is determined to be responsible pursuant to Section 26.4 or Article 27.

16.2 **Meaning of Force Majeure.** For purposes of this Agreement, "*Force Majeure*" means an act, event, or circumstance, whether of the kind described herein or otherwise, which: (a) [\*\*\*]; (b) [\*\*\*]; and (c) [\*\*\*]. Subject to the foregoing, such events of Force Majeure may include, without limitation, [\*\*\*].

16.3 **Duration of Force Majeure.** A Permissible Delay arising from an event of Force Majeure shall be of no greater duration than is required by the event of Force Majeure.

16.4 **Mitigation of Force Majeure.** Builder shall use its commercially reasonable efforts, acting in accordance with Good Shipbuilding Practice, to mitigate the consequences of an event of Force Majeure.

16.5 **Governmental Interference.** Claims of governmental interferences in the Shipyard will only be considered Force Majeure if exercised by the governmental entity pursuant to clear legal authority. If exercised without clear legal authority, such interferences will only be considered Force Majeure if Builder exercises its legal rights to oppose such interference by all reasonable legal means to prevent any such interference from delaying the delivery of the Vessel.

16.6 **Labor Disturbance or Shortage.** Labor disturbances or shortages will only be considered Force Majeure if they arise as a result of matters outside the reasonable control of Builder and provided that Builder has made every reasonable effort to mitigate the effects of labor disturbances or shortages through subcontracting and adjustments to the Project Schedule as reasonably possible. Labor disturbances or shortages incident to the renewal of Builder's collective bargaining agreements or other labor agreements (collectively, "*Labor Agreements*") will not be considered to be within Builder's reasonable control provided that Builder negotiates such Labor Agreements in good faith.

16.7 Unavailability of Supplies. The unavailability, inadequacy, or delay of fuel, electricity, supplies, Materials, or equipment (other than OFE) will not be considered Force Majeure unless Builder [\*\*\*].

16.8 Notice of Force Majeure. In the event of an incident claimed by Builder to constitute Force Majeure, Builder's Representative shall notify Owner's Representative at the Shipyard of such claim of Force Majeure on the Day claimed to be lost due to the event of Force Majeure, or as soon as reasonably possible thereafter, and the representatives shall consult that Day or as soon as reasonably possible thereafter. Builder's notice shall be in writing and shall include, at a minimum, a description of the event of claimed Force Majeure, an estimate of the duration of the delay anticipated from such event, and the expected impact of the event on the Project Schedule and the Delivery Date, if known. No claim of Force Majeure may be made for an incident or event unless notified to Owner in accordance with this Section, and in any event within [\*\*\*] of Builder becoming aware of the incident or event.

16.9 Documentation of Agreement on Force Majeure. If Builder's Representative and Owner's Representative agree that the event was or was not one of Force Majeure, they shall document such agreement by email or otherwise in writing, and such agreement shall be conclusive and binding. If the representatives agree that the event was one of Force Majeure, then the resulting delay shall be a Permissible Delay and the Delivery Date for the Vessel shall be extended by the amount of time equal to the duration of the event.

16.10 Resolution of Disagreement on Force Majeure. If the Owner's Representative does not agree that the event was Force Majeure, then the Owner's Representative shall refer the issue to duly authorized officers of the Parties for decision. If the duly authorized officers do not reach agreement within [\*\*\*], the Parties shall refer such disputes to resolution under Article 27.

16.11 Notice of End of Force Majeure. Builder shall notify Owner in writing of the end of any claimed Force Majeure event as soon as reasonably practicable after its cessation but not exceeding [\*\*\*] and provide an updated Project Schedule reflecting the impact, if any, of the event of Force Majeure.

16.12 Extended Force Majeure.

- (a) *Owner's Right to Terminate for Extended Force Majeure.* If Builder claims Permissible Delays due to Force Majeure for [\*\*\*] in the aggregate, then Owner, in its absolute discretion, shall have the right to terminate this Agreement for convenience upon [\*\*\*] prior written notice to Builder.

- (b) *Builder's Right to Notice of Owner's Election.* At any time after stating claims for Permissible Delays of [\*\*\*] or more in total, Builder may request in writing that Owner make an election whether to exercise its rights under Subsection (a). Owner shall respond to Builder in writing within [\*\*\*] after receipt of such a request, electing one of the following options: (i) to terminate this Agreement, or (ii) to consent to a rescheduling of the Delivery Date to a specific future date; it being understood and agreed by the Parties that if any further delay occurs due to Force Majeure, then Owner shall have the renewed right to terminate this Agreement pursuant to this Section 16.12.
- (c) *Termination and Charges.* Upon receipt of such notice, Builder shall release the Vessel, and the Work and any Materials or equipment relating thereto to Owner and shall invoice Owner:
- (i) for the portion of the Contract Price allocable to the Work in progress performed on and Material commitments made for the Vessel as of the effective date of the termination, less the aggregate of previous payments relating to the Vessel; and
  - (ii) for all documented expenditures made and costs incurred reasonably necessary to the settling or discharging of outstanding commitments relating to the Vessel entered into by Builder in performing under this Agreement.
- (d) *Payment and Discharge.* Owner shall pay the invoice at the time Builder releases the Vessel to Owner, and upon such payment, shall be discharged from further obligations under this Agreement, except as provided in Subsection (e).
- (e) *Removal of Vessel.* Upon Builder's release of the Vessel pursuant to Subsection (c) Builder shall allow Owner a reasonable period of time to remove the Vessel and the Materials from the Shipyard and shall cooperate with Owner with regard to the removal of the Vessel and the Materials from the Shipyard, including launching the Vessel (if in a condition for launching), and access to the Shipyard for Persons and equipment necessary to remove the Vessel, including transport of the Vessel to and/or from a barge (if the Vessel is not in a condition for launching). Owner shall not be liable for wharfage or storage for the Vessel for the first [\*\*\*] following release of the Vessel but shall pay Builder for any wharfage and storage thereafter and shall pay for all other services at Builder's standard rates.

- (f) *Exclusive Remedy, No Default.* In the event of termination for extended Force Majeure pursuant to this Section by Owner, Owner's right to terminate shall be its sole and exclusive remedy and the provisions of Article 18 shall not apply and the termination shall not be deemed to be on account of a Builder default. Upon such termination and payment by Owner to Builder of the amounts required under Subsection (c), the Parties shall execute and deliver a mutual release of all obligations under this Agreement relating to the Vessel, except for those that this Agreement provides shall survive termination.

16.13 Delayed Delivery of Owner Furnished Information. A delay due to the delayed delivery of necessary Owner-supplied information or documents shall not constitute a Permissible Delay unless: (i) Builder timely informed Owner of the need for such information or documents pursuant to Sections 8.3(f) and 8.10(c) and as otherwise reasonable; and (ii) the delayed delivery causes an actual delay in the progress of the Work that could not be avoided by the exercise of reasonable judgment by Builder. The extent of such Permissible Delay shall be only to the extent of its actual impact on the Progress of the Work. In the event that Builder claims that a delayed delivery should constitute a Permissible Delay, the Parties shall evaluate such claim in accordance with the procedures set out in Sections 16.8 through 16.10, *mutatis mutandis*.

16.14 COVID-19. The Parties acknowledge the current world events surrounding the COVID-19 pandemic and agree that [\*\*\*].

16.15 [\*\*\*] Contracts. Builder advises that it has contracts committing Builder to construct [\*\*\*].

#### **Article 17**                      **EARLY DELIVERY BONUS, LIQUIDATED DAMAGES FOR DELAY**

17.1 Early Delivery Bonus. In the event Builder shall deliver the Vessel earlier than the Delivery Date, the Contract Price for the Vessel shall be increased in the amount of [\*\*\*] by which the actual date of Delivery for the Vessel precedes the Delivery Date, up to a maximum increase of [\*\*\*].

17.2 Grace Period. Builder shall not be responsible for liquidated damages for the first [\*\*\*] of delay of the delivery of the Vessel beyond the Delivery Date (such period of time, the "Grace Period").

17.3 [\*\*\*] Late Delivery. If Builder shall deliver the Vessel later than [\*\*\*], then Builder shall pay to Owner as liquidated damages in the form of a reduction in the Contract Price, to the extent any amounts are still owing, and any balance in cash, the amount of [\*\*\*] that the

actual date of Delivery for the Vessel occurs later than [\*\*\*] after the Delivery Date, up to [\*\*\*] of delay.

17.4 [\*\*\*] Late Delivery. If Builder shall deliver the Vessel later than [\*\*\*], then Builder shall pay to Owner as liquidated damages in the form of a reduction in the Contract Price, to the extent any amounts are still owing, and any balance in cash, the amount of [\*\*\*] that the actual date of Delivery of the Vessel occurs later than [\*\*\*], up to [\*\*\*] of delay. Any amount payable as liquidated damages under this Section 17.4 shall be in addition to the liquidated damages payable under Section 17.3.

17.5 [\*\*\*] Late Delivery. If Builder shall deliver the Vessel later than [\*\*\*] after the Delivery Date, then Builder shall pay to Owner as liquidated damages in the form of a reduction in the Contract Price, to the extent any amounts are still owing, and any balance in cash, the amount of [\*\*\*] that the actual date of Delivery of the Vessel occurs later than [\*\*\*] after the Delivery Date, up to [\*\*\*] of delay. Any amount payable as liquidated damages under this Section 17.5 shall be in addition to the liquidated damages payable under Sections 17.3 and 17.4.

17.6 [\*\*\*] Late Delivery. If Builder shall deliver the Vessel later than [\*\*\*] after the Delivery Date, Builder shall pay to Owner as liquidated damages in the form of a reduction in the Contract Price, to the extent any amounts are still owing, and any balance in cash, the amount of [\*\*\*] that the actual date of Delivery for the Vessel occurs later than [\*\*\*] after the Delivery Date. Any amount payable as liquidated damages under this Section 17.6 shall be in addition to the liquidated damages payable under Sections 17.3, 17.4, and 17.5.

17.7 Maximum Liquidated Damages. In no event shall Builder's aggregate liability for liquidated damages under this Article exceed [\*\*\*].

17.8 Agreement to Liquidated Damages. The Parties agree that in the event of late Delivery of the Vessel, Owner shall suffer damages that are difficult to ascertain, and the Parties acknowledge and agree that liquidated damages in the amounts set forth herein are a reasonable estimate of the anticipated damages that Owner may suffer as a result of delayed Delivery and are not a penalty. It is understood and agreed by and between Builder and Owner that such reduction in the Contract Price for the liquidated damages or payment of any balance in cash shall be in lieu of all other delay damages available to Owner for the late Delivery of the Vessel under this Agreement or at law or in equity (except for the injunctive relief set forth Sections 9.4(d) and 27.12, if any, and shall be construed as liquidated damages and as a waiver of any rights or remedies otherwise available for the failure to timely complete the Vessel on or before the Delivery Date as such may be adjusted. Notwithstanding the foregoing, Owner specifically reserves its equitable remedies for injunctive relief as contemplated by Sections 9.4(d) and 27.12. Liquidated damages shall cease to accrue at such time that Builder tenders Delivery to Owner of the Vessel if

construction of the Vessel is fully completed in accordance with the Contract Documents except for Minor Non-Conformities.

17.9      Owner's Right to Terminate for Late Delivery.

- (a)      *Owner's Right to Terminate for Late Delivery.* In the event Builder shall not have delivered the Vessel on or before [\*\*\*] after the Delivery Date, Builder shall be in default under this Agreement and in addition to the liquidated damages due, Owner may at its option terminate this Agreement pursuant to Section 18.2.
- (b)      *Builder's Right to Notice of Owner's Election.* At any time after Owner's right to terminate this Agreement accrues under Subsection (a), Builder may request in writing that Owner make an election whether to exercise its rights under Subsection (a). Owner shall, within [\*\*\*] after receipt of such a request, respond to Builder in writing electing one of the following options: (i) to terminate this Agreement, or (ii) to consent to accept delivery of the Vessel at an agreed specific future date; it being understood and agreed by the Parties that if the Vessel is not delivered by such date, then Owner shall have the right to immediate termination of this Agreement thereafter pursuant to Subsection (a).

**Article 18**      **DEFAULT AND TERMINATION**

18.1      Builder's Default. Subject to any applicable notice and cure periods, the following events shall constitute events of default by Builder:

- (a)      Builder fails to establish and maintain the Project Schedule as required by Article 8 that would permit Owner to terminate this Agreement pursuant to Section 8.9;
- (b)      Builder materially fails to execute or perform the Work in accordance with the Contract Documents;
- (c)      a Regulatory Authority advises in writing that it will withhold a material certificate or certification required for the operation of the Vessel or by the Contract Documents, or will impose a material adverse limitation on the Vessel's operations contrary to the Specifications, other than due to an act or omission of Owner or its agents, or any errors, omissions, defects, or failures in the Basic Design;



- (d) Builder or any other Person files in any court a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Builder's property, or an order of discharge of Builder is ordered by any Court;
- (e) Builder makes an assignment for the benefit of creditors or petitions for or enters into an agreement or agreements with its creditors, and by reason of any of these events Builder's obligations under this Agreement are assigned to or are to be or are performed by a Person other than Builder;
- (f) Builder fails to cause the removal of, or the posting of adequate security for the removal of, any Liens, privileges, or security interests against the Vessel, or the Materials, except for those Liens, privileges, or security interests created by Owner or Owner's subcontractors or vendors, or to which Owner has consented;
- (g) Insufficient progress in the construction of the Vessel that would permit Owner to terminate this Agreement pursuant to Section 8.14;
- (h) Delay in the Delivery of the Vessel that would permit Owner to terminate this Agreement pursuant to Section 17.9;
- (i) [\*\*\*]; or
- (j) Builder fails to perform any other material obligation of Builder under this Agreement.

18.2 Owner's Right to Terminate Upon Builder's Default.

- (a) *Owner's Right of Termination.* Upon the occurrence of an event of default set forth in Section 18.1, Owner, by giving written notice of any such event to Builder, may terminate this Agreement subject to the following provisions. Such termination shall be effective as of the date notice thereof is received by Builder, subject to Sections 18.2(b) and 18.2(c) below.
- (b) *Cure Period.* Except where termination occurs pursuant to Sections 6.4 (failure to provide the required financial security) or 8.9 (failure to establish and maintain the Project Schedule), no termination shall be effective if Builder cures the noticed event of default within [\*\*\*] after receipt of Owner's written notice, subject to Subsection (c).

- (c) *Remedial Action Plan.* Where Owner's right to termination is subject to a cure period under Subsection (b), before exercising its right to terminate, upon receipt of Owner's written notice given in accordance with Subsection (a), Builder may propose a plan to cure the event of default and/or accomplish the Delivery of the Vessel as soon as possible notwithstanding the extent or limit of the cure period provided in Subsection (b) (such plan a "Remedial Action Plan"), subject to the following provisions:
- (i) The Remedial Action Plan shall not be unreasonably rejected by Owner.
  - (ii) Acceptance by Owner of a Remedial Action Plan in connection with the late delivery of the Vessel shall not extend the Delivery Date for purposes of Liquidated Damages under this Agreement and Liquidated Damages shall continue to accrue, notwithstanding any provision or limits in Section 17.7 to the contrary.
  - (iii) In the event that Builder fails to follow and accomplish the Remedial Action Plan, Owner shall have the right to terminate this Agreement at any time after the later of the end of the cure period under Subsection (b) or the expiration of the notice period given under Section 17.9(b), as applicable.
- (d) Owner's right to termination as set forth in this Section shall be in addition to and without prejudice to, any other remedies Owner may have under this Agreement.

18.3 Owner's Rights Upon Termination. Upon Owner's election to terminate this Agreement pursuant to Section 18.2, Owner shall have the option to transport the Work in progress from Builder's Shipyard to another location, and complete the Work by such means as Owner deems fit, or dispose of the Vessel in its incomplete state and retain all proceeds therefrom, subject to the following terms:

- (a) *Builder to Make Work Ready for Transportation.* In the event of the exercise of such option, upon Owner's termination of this Agreement becoming effective pursuant to this Article, Builder will promptly undertake, at its sole cost, to place all Work pertaining to the Vessel in a suitable condition for transportation to another location.
- (b) *Builder to Provide Access and Reasonable Assistance.* Builder shall provide Owner access to such Work and provide reasonable assistance to Owner in the removal from the Shipyard of any Work completed to the date when the Work

was discontinued and shall allow Owner and Owner's Representative continuing access to Builder's Shipyard and storage areas for a period of [\*\*\*] following the effective date of termination in order to remove the Work and any related Materials that have been paid for by Owner to another location.

- (c) *Owner's Liability for Payment.* Owner shall be liable to pay to Builder only for those parts of the Work and Materials incorporated into, supplied, or delivered to the Vessel or Owner by Builder, less the amount of the Contract Price previously paid by Owner.

18.4 **Owner's Right to Complete Work.** In the event of a Builder's default under Subsections 18.1(d) or 18.1(e), as an alternative to Owner's right to remove the Work from Builder's Shipyard under Section 18.3(a), Owner shall have the right to complete the Work, or portions of the Work, at Builder's Shipyard, including the right to continued access to and use of Builder's Shipyard and all equipment of the Builder in Builder's Shipyard as may be required by Owner to complete the Work, subject to the following terms:

- (a) *Limit on Time for Completion.* Such right to access to, and use of, Builder's Shipyard and equipment shall continue for not more than [\*\*\*], exclusive of time permitted for the removal of the Work pursuant to Section (c), and delays satisfying the standards for Permissible Delays pursuant to Article 16.
- (b) *Owner's Liability for Payment.* Owner shall be liable to pay to Builder only for those parts of the Work incorporated into, supplied, or delivered to the Vessel by Builder, less the amount of the Contract Price previously paid by Owner; and the continued use of the Shipyard and the equipment pursuant to this Section shall be free of any rent or any further charges.
- (c) *Owner's Responsibility to Comply with Rules.* During such continued use of the Shipyard and equipment, Owner shall be responsible to comply with the requirements of Section 11.3 (compliance with rules and regulations at the Shipyard), and Builder shall be responsible to comply with the requirements of Sections 11.2 (provision of access to the facilities) and 11.4 (provision of access to the Vessel).
- (d) *Insurance During Completion Period.* During such period of time as the Work remains at the Shipyard following termination of this Agreement pursuant to Section 18.2, Owner shall be required to maintain reasonable Builder's Risk insurance naming Builder as an additional assured, and shall further defend, hold harmless and indemnify Builder from and against any claims, liabilities,

or damages caused by the negligence or wrongful act of Owner or Owner's subcontractors at the Shipyard.

18.5 Duty to Consult Prior to Exercising Remedies. Prior to exercising its rights under Sections 18.2 or 18.4, Owner shall consult with Builder to develop a course of action for the safe, efficient, and cooperative coordination of the actions to be carried out.

18.6 Damages in Event of Completion. In the event that Owner elects to complete the Vessel pursuant to Section 18.2(c) or Section 18.4, Builder shall pay to Owner any additional direct costs incurred by Owner to complete the Vessel in accordance with the terms of the Contract Documents (including the plans and specifications referred to therein) as existing on the date of termination of this Agreement, evidenced by documented invoices provided to Builder, including any costs of relocation, over and above the balance of the Contract Price, provided that Owner shall use commercially reasonable efforts to mitigate any such additional costs incurred to complete and relocate the Vessel, and subject to the limitations of Article 19.

18.7 Damages in Event of Disposal. In the event that Owner disposes of the Vessel pursuant to Section 18.2(c), Builder shall pay to Owner the difference, if any, between the proceeds of such disposition and the amounts paid by Owner to Builder in connection with the Vessel, provided that Owner shall carry out the disposition of the Vessel in its unfinished state in a commercially reasonable manner, and subject to the limitations of Article 19. Builder shall have the right to bid for the purchase of all items put on sale or otherwise offered for disposal by the Owner.

18.8 Owner's Right to Call Upon Financial Security. If Owner terminates this Agreement in accordance with the terms of this Agreement, Owner may call upon the Letter of Credit and the Builder's Corporate Parent Guarantee provided by Builder pursuant to Article 5 and may invoke all rights and remedies available to it pursuant to the Letter of Credit and the Builder's Corporate Parent Guarantee as applicable.

18.9 Builder's Obligation of Assignment. Upon termination of this Agreement by Owner, Owner may, in its absolute discretion, require Builder promptly to assign and/or deliver to Owner, to the extent Builder is permitted to do so, all or any (in each of the following cases, only as they directly relate to the Vessel): (a) bids or proposals; (b) subcontracts; (c) construction plans; (d) Materials, tools and equipment (to the extent paid for by Owner); (e) rental agreements; (f) Work, including the Vessel (to the extent Owner has title to same in accordance with Section 24.1); and (g) any other commitments directly related to the Vessel. In the event of any such assignments as required hereunder, Builder shall promptly execute and deliver to Owner written assignments of the foregoing in a form reasonably acceptable to Owner.

18.10 Owner's Default. The following events shall constitute events of default by Owner:

- (a) Owner shall fail to make any payment when required under this Agreement, and such payment is not made within [\*\*\*] after Owner's receipt of written notice of the failure of payment from Builder to Owner;
- (b) Owner or any other Person files in any court a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Owner's property, or an order of discharge of Owner is ordered by any Court;
- (c) Owner makes an assignment for the benefit of creditors or petitions for or enters into an agreement or agreements with its creditors, and by reason of any of these events Owner's obligations under this Agreement are assigned to or are to be or are performed by a Person other than Owner; or
- (d) Owner fails to take Delivery of the Vessel, when the Vessel is duly tendered by Builder to Owner for Delivery under Article 17; or
- (e) Owner fails to perform any other material obligation of Owner under this Agreement.

18.11 Builder's Right of Suspension. If Owner fails to timely cure a payment default in accordance with Article 18.10(a), then Builder may in its absolute discretion, suspend or reschedule progress of the Work (such right being in addition to any other right granted hereunder or by operation of law) until such time as Builder receives the overdue payment, together with accrued interest thereon, from Owner. Any delay in the Work due to such suspension or rescheduling shall be deemed Permissible Delay under Article 16.

18.12 Builder's Right of Termination. Upon the occurrence of any event of default by Owner under Section 18.10, Builder, upon [\*\*\*] written notice to Owner, may terminate this Agreement. However, during such [\*\*\*] notice period, Owner shall have the absolute right to cure any such event of default, in which case this Agreement shall not be terminated. If such event of default is not timely cured, Builder may, at its option, terminate this Agreement in whole or in part, and may:

- (a) demand performance from Owner;
- (b) seek resolution of the payment default through the procedure set forth in Article 27;

(c) sell the undelivered Vessel in its then-present condition and location in a commercially reasonable manner, including at a public auction announced at least [\*\*\*] in advance in Lloyd's List (print and internet) provided written notice of the auction has been provided to Owner; or

(d) complete the undelivered Vessel and sell it to third parties in a commercially reasonable manner.

18.13 **Allocation of Proceeds of Sale.** The proceeds of the sale of the Vessel pursuant to Subsections 18.12(c) or 18.12(d), net of all expenses, shall be applied to any unpaid balance due and owing to Builder, together with interest thereon. The excess proceeds, if any, from any such auction or sale shall be paid to Owner, without further set-off. If the proceeds of the sale of the Vessel pursuant to this Section, net of all expenses, are insufficient to pay the outstanding balance due to Builder, together with interest thereon, then Builder may demand payment of the amount remaining outstanding, together with interest thereon, and if payment is not so made within [\*\*\*] of demand, then Builder may seek recovery of such amount in accordance with Article 27.

18.14 **No Default for Owner Delays.** Any delay by Owner or its representatives in providing to Builder or its agents any Owner-supplied information, documents and/or goods or materials for the construction of the Vessel shall not constitute a breach or default of this Agreement by Owner but shall be covered instead by the appropriate provisions of Article 16 relating to Permissible Delays.

18.15 **Survival of Certain Provisions.** Notwithstanding the completion, expiration or early termination of this Agreement, and without prejudice to any rights or claims of a Party arising prior to such expiration or termination, the following Articles and Sections shall remain in full force and effect following such expiration or termination:

- (a) Section 7.9: No Misappropriation of Basic Design;
- (b) Article 25: Indemnification;
- (c) Section 27.11: Confidentiality of Arbitration Awards;
- (d) Article 28: Publicity and Disclosures; and
- (e) Section 30.12: Confidentiality.

## **Article 19**

## **LIMITATION OF DAMAGES**

19.1 [\*\*\*]. [\*\*\*].

19.2 Limit on Builder's Liability. In no event shall Builder's total liability to Owner pursuant to this Agreement or to anyone claiming by or through Owner, for any costs, claim, judgment, demand, Lien, or loss arising under this Agreement, and/or in negligence, contract, warranty, tort or any other theory of liability, be greater in the aggregate than [\*\*\*]. [\*\*\*].

19.3 Exclusion of Third Party Claims. In no event shall the foregoing limitations of liability apply to any third-party personal injury, property damage or pollution claims.

19.4 [\*\*\*] Remedies. The Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. [\*\*\*].

**Article 20      ASSIGNMENT OF THIS AGREEMENT**

20.1 Prior Written Consent Required. This Agreement shall inure to the benefit of Builder and Owner and their successors and assigns, subject to the provisions of this Article.

20.2 Assignment by Builder.

- (a) Builder shall not assign this Agreement or any interest hereunder without the prior written consent of Owner, such consent not to be unreasonably withheld, conditioned or delayed. Such limitation on assignment of this Agreement is expressly intended to apply to any purported assignment of a security interest in this Agreement. Any purported assignment of this Agreement by Builder without Owner's prior written consent shall be null and void.
- (b) If Builder assigns its rights under this Agreement, Builder shall at all times remain jointly and severally liable under this Agreement (as primary obligor and not merely as surety) with the assignee unless Owner agrees otherwise in writing.

20.3 Assignment by Owner.

- (a) Except as provided below, Owner may at any time assign this Agreement or its rights hereunder upon prior written notice to Builder, and any such assignment by Owner shall not be grounds for termination of this Agreement. For purposes of this Section, the term "assign this Agreement" shall include any pre-delivery sale or assignment of Owner's interest in the Vessel and the Materials in which title has vested in Owner pursuant to Article 24.
- (b) Notwithstanding Subsection (a), any assignment of this Agreement that would: [\*\*\*]; or (iii) be a violation of any United States' sanctions regime or otherwise in violation of law, shall in such case require the prior written consent of

Builder, such consent not to be unreasonably withheld, conditioned or delayed. Any purported assignment of this Agreement by Owner in violation of this Subsection (b) shall be null and void.

- (c) Notwithstanding any assignment of this Agreement by Owner, [\*\*\*] unless Builder agrees otherwise in writing.

**Article 21            COMPLIANCE WITH LAWS**

21.1 **Compliance with Laws.** Builder shall at all times comply with all United States, State, and local laws in all jurisdictions in which Builder is performing the Work in any way affecting the Work, and with all applicable laws, rules, regulations, and requirements of any Regulatory Authorities that are in effect or that shall become effective as to the Vessel, the Work, or Builder's operations during the term of this Agreement, without limitation to Builder's rights under Section 10.6.

21.2 **Procurement of Permits.** Builder shall procure at its own expense such permits from the United States and applicable State and local authorities in all jurisdictions in which Builder is performing the Work as may be required or otherwise appropriate in connection with beginning or carrying on the completion of the Work.

21.3 **Changes in Law.** Any changes in Coast Guard regulations or Classification Society Rules applicable to the Vessel that have not previously been incorporated in the Contract Documents and that affect the Work, the Delivery Date, or the Contract Price, may be the subject of a Change Order pursuant to Section 10.6.

**Article 22            INTELLECTUAL PROPERTY**

22.1 **Defense of IP Claims Against Builder's Intellectual Property.** Builder agrees to defend, at its own expense, any claim or action for actual or alleged infringement (including contributory or vicarious infringement) of any patent, copyright, trademark or other intellectual property right (including, but not limited to, misappropriation of trade secrets) (such claims or actions, collectively, "**IP Claims**") brought by any third party against Owner and/or any of Owner Group, as defined in Section 25.1, based upon any design, materials, processes, machinery and equipment supplied by Builder and embodied in the Work

22.2 **Defense of IP Claims Against Owner's Intellectual Property.** Owner agrees to defend, at its own expense, any IP Claims brought by any third party against Builder and/or any of the Builder Group, as defined in Section 25.3, based upon any design, materials, processes, machinery and equipment supplied by Owner and embodied in the Work.



22.3 Indemnification. Each Party further agrees to defend, indemnify and hold harmless the other Party and its respective Group from and against any and all liabilities, losses, costs, damages, and expenses (including reasonable attorneys' fees) associated with any such IP Claims incurred by the other Party and/or its respective Group in connection with the indemnifying Party's intellectual property.

22.4 Control of Defense Against IP Claims.

- (a) *IP Claims Against Builder's Intellectual Property*. Builder shall conduct and control the defense of any IP Claim or action which Builder is required to defend under Section 22.1 and all negotiations for its settlement or compromise, unless otherwise mutually agreed to in writing between the Parties hereto.
- (b) *Claims Against Owner's Intellectual Property*. Owner shall conduct and control the defense of any IP Claim or action which Owner is required to defend under Section 22.2 and all negotiations for its settlement or compromise, unless otherwise mutually agreed to in writing between the Parties hereto.

22.5 Notice of IP Claims. Builder agrees to give Owner, and Owner agrees to give Builder, as appropriate, prompt written notice of any written threat, warning or notice of any such IP Claims or action.

22.6 Actions in Event of Finding of Infringement. If in any such suit so defended, all or any part of the Work (or any design element, component, equipment or Material thereof) that is supplied by a Party is held to constitute an infringement or violation of any third party's intellectual property rights and is enjoined, or if in respect of any claim of infringement such Party deems it advisable to do so, such Party shall at its sole option and absolute discretion take one or more of the following actions at no additional cost to the other Party: (a) procure the right to continue the use of the same without material interruption for the other Party or (b) take back the infringing design element, component, equipment or Material and replace it with non-infringing design element, component, equipment or Material acceptable to the other Party at no additional cost to the other Party.

**Article 23      NOTICES AND COMMUNICATIONS**

23.1 Means of Notice. Any notices required or permitted to be given pursuant to this Agreement shall be given in writing and delivered by either United States certified mail (express delivery with signed receipt), courier service with signed receipt on delivery, hand delivery with

signed receipt, or electronic mail if receipt of such communication is confirmed in writing or by electronic mail from all "to" addressees. A notice shall be effective upon delivery.

23.2      Contact Details. Notices hereunder shall be sent to the following Persons:

If to Owner:

GREAT LAKES DREDGE & DOCK, LLC.  
9811 Katy Freeway  
Suite 1200  
Houston, Texas 77024  
[\*\*\*]

[\*\*\*]

[\*\*\*]

If to Builder:

PHILLY SHIPYARD, INC.  
2100 Kitty Hawk Avenue  
Philadelphia, PA 19112  
[\*\*\*]  
[\*\*\*]

23.3      Authorized Signatories for Changes. Notwithstanding any other provision of this Agreement, all final authorizations and agreements concerning deductions from, additions to, or modifications of the Vessel's design or Specifications or any agreements that concern changes in the Delivery Date of the Vessel and/or Contract Price shall not be valid or binding on either Party unless signed by one of the below designated representatives for each Party or their respective successors in office:

OWNER:      David Simonelli, Chief Operating Officer

BUILDER:      Ray Staton, Project Manager

23.4      Availability for Consultation. Each Party agrees that at least one of its designated representatives will be available for consultation during normal working hours. The Parties further agree that a Party may change its above-designated representatives upon [\*\*\*] prior written notice.

**Article 24**      **TITLE, SECURITY, AND WARRANTY OF TITLE**

24.1      Progressive Vesting of Title to Vessel. Title in and to the Vessel as it is constructed shall progressively vest, and once vested shall in all events remain, in Owner, not Builder, as the Vessel is constructed. Owner's title shall not extend to any scrap or surplus materials resulting from the Work, title to which shall remain in Builder.

24.2      Title to Major Equipment Due to Payment by Owner. Title to specific items of Major Equipment procured by Builder shall vest in Owner free of any Liens of Builder or Builder's creditors upon Owner's payment of supplier's invoice for such items pursuant to Section 4.3.

24.3      Title to Equipment Generally. Title to all Major Equipment, Materials, parts, equipment, or other items furnished by Builder in connection with the Work shall vest in Owner when the same is either (a) paid for by Owner pursuant to Section 4.3; (b) actually installed or incorporated in the Work; or (c) delivered to the Shipyard or other locations and identified with the Vessel or marked by Builder or Owner's Representative as pertaining to the Vessel prior to incorporation into the Work, whichever of (a), (b), or (c) occurs sooner.

24.4      Builder's Possessory Lien. Notwithstanding Sections 24.1 or 24.3, Owner's title to the Vessel, the Work, Materials, parts, and equipment shall be subject to Builder's possessory Lien for any outstanding payments due from Owner to Builder under this Agreement as provided under applicable law.

24.5      No Cross-Liens. In no event shall Builder, Builder's creditors, or any of Builder's Subcontractors or Suppliers be permitted to claim a lien against the Vessel for work, Materials, parts, or equipment provided to any other vessel owned or operated by any person in the Owner Group.

24.6      Risk of Loss. Notwithstanding the other provisions of this Article, Builder shall bear the risk of loss of the Vessel, the Work, and all Materials, parts, and equipment identified to the Vessel until the Vessel is completed and delivered to and accepted by Owner pursuant to an executed Protocol of Delivery and Acceptance in accordance with this Agreement.

24.7      Security Interest in the Work. If, notwithstanding the express provisions of this Article, the Vessel or any of the property to which Owner holds title as described in this Article, is for any reason deemed by any court of competent jurisdiction not to be the property of, and owned by, Owner, then Builder, to the extent it has any interest therein, alternatively hereby grants a first priority security interest in the Vessel, the Work, and all Materials, parts, and equipment identified to the Vessel in favor of Owner. The foregoing security interest granted hereby in the alternative shall secure all of Builder's obligations to Owner under this Agreement. Owner shall

have the right to file without any further consent or signature of Builder one or more UCC-1 Financing Statements against Builder covering the Vessel, the Work, and all Materials, parts, and equipment identified to the Vessel, giving notice of its ownership and/or its security interests therein.

24.8      Marking of Vessel and Materials. Immediately upon any property described in this Article becoming or being deemed the property of Owner under the provisions of this Article, Builder shall conspicuously mark or cause to be marked on the bow of the Vessel, and also on all such other Materials, property or its packaging, the Builder's Hull Number for the Vessel.

24.9      Application to Subcontractors and Suppliers. Builder shall use its best efforts to arrange its contractual arrangements with all of its Subcontractors and Suppliers such that full effect will be given to the title provisions of this Article and, without limiting the foregoing, shall ensure that all property shall be supplied on the following conditions:

- (a)      *Vesting of Title, Subject to Lien for Price.* The title to such property supplied by a Subcontractor or Supplier (whether in the course of construction or completed and whether before or after delivery to Builder) shall vest immediately in Builder (and thence, pursuant to Article 24.1, immediately in Owner), subject only to the Subcontractor's or Supplier's possessory lien, if any, for any unpaid balance of the purchase price of such property; and
- (b)      *No Extension of Lien.* The Subcontractor or Supplier shall not, upon receipt by it of the purchase price for such property, be entitled, as against Owner, to claim any title or Lien therein by reason of obligations or liabilities of Builder to the Subcontractor or Supplier in respect of any other deliveries made by the Subcontractor or Supplier to Builder, or for any other reason.

24.10      Warranty of Clear Title. Builder warrants that it shall deliver the Vessel with clear title to Owner, free and clear of all Liens and encumbrances, other than Liens and encumbrances created or suffered to be created by or through Owner or any of its Affiliates or any of their subcontractors or suppliers.

24.11      Owner's Right to Removal of Liens. In the event of the filing or attaching of any Lien or encumbrances created or suffered to be created by or through Builder or any of its Subcontractors or Suppliers against the Vessel before the Delivery Payment, Owner may, but shall not be required to, satisfy the same out of any amount remaining to be paid to Builder hereunder, except where Builder notifies Owner of a bona fide dispute between Builder and such lienholder. When final payment is to be made for the Vessel under this Agreement, as a condition precedent thereto, Owner may, in its discretion, require that Builder provide to Owner a statement certifying

and indemnifying Owner against any Liens or rights in rem of any kind against the Vessel or its respective machinery, fittings, or equipment which relate to actions of Builder and excluding any Liens or encumbrances created or suffered to be created by or through Owner or any of its Affiliates or any of their subcontractors or suppliers.

24.12 Indemnification against Liens and Claims. In addition to and notwithstanding the foregoing, but subject to the provisions contained in Section 24.4, Builder agrees to indemnify Owner, the Vessel, and/or Materials identified to the Vessel, and hold them harmless from and against all Liens and claims for labor, Material, taxes, privileges and licenses arising out of, in connection with, or resulting from the operations or activities of Builder, its employees or agents or Subcontractors and the employees or agents of their Subcontractors, and agrees to defend any such claim asserted or suit brought against Owner, the Vessel, and/or Materials identified to the Vessel, and to pay any judgment rendered in any such action, provided, however, that Owner shall have the right, if it so elects, to participate at its own expense in the defense of any such claims or suits, but such participation shall not operate to affect Builder's liability and obligation hereunder.

## **Article 25**

## **INDEMNIFICATION**

25.1 Builder's Indemnification of Owner (Knock for Knock). BUILDER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER, ITS PARENT, OFFICERS, AGENTS, EMPLOYEES, SUBSIDIARIES, AFFILIATES, SUCCESSORS, ASSIGNS, INSURERS, AND VESSELS (HEREINAFTER COLLECTIVELY REFERRED TO AS "OWNER GROUP") FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, DEMANDS, LOSSES, SUITS, LIENS, CAUSES OF ACTION OF EVERY KIND AND CHARACTER AND THE COSTS THEREOF INCLUDING, WITHOUT LIMITATION, COURT COSTS, ANY OTHER LITIGATION EXPENSES, ATTORNEYS FEES, SETTLEMENTS, AND JUDGMENTS, FOR PERSONAL INJURY (INCLUDING, BUT NOT LIMITED TO, CLAIMS, DEMANDS, OR SUITS FOR BODILY INJURIES, EMOTIONAL AND PSYCHOLOGICAL INJURIES, ILLNESSES, DISEASES, DEATH, LOSS OF SERVICES, LOSS OF SOCIETY, DIMINISHED EARNINGS CAPACITY, MAINTENANCE AND CURE, WAGES, AND WORKER'S COMPENSATION) OR PROPERTY LOSS OR DAMAGE WHICH ARE BROUGHT AGAINST ANY MEMBER OF OWNER GROUP BY ANY MEMBER OF BUILDER GROUP AND WHICH ARE ALLEGED TO ARISE OUT OF, BE INCIDENT TO, ARISE IN CONNECTION WITH, OR RESULT FROM OCCURRENCES IN THE COURSE OF OR IN CONNECTION WITH EITHER PARTY'S PERFORMANCE OF THIS AGREEMENT THAT ARISE BEFORE DELIVERY. BUILDER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS OWNER GROUP WHETHER THE SUIT OR CLAIMS ARE OCCASIONED, BROUGHT ABOUT, OR CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, FAULT OR STRICT LIABILITY (INCLUDING

UNSEAWORTHINESS) OF OWNER GROUP, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL TORTIOUS CONDUCT OF THE OWNER GROUP. BUILDER ALSO AGREES TO INDEMNIFY OWNER GROUP FOR ALL COSTS, EXPENSES, AND ATTORNEYS' FEES EXPENDED BY OWNER GROUP IN THE ENFORCEMENT OF THIS SECTION 25.1.

25.2 Builder's Indemnification of Pollution Liability. BUILDER FURTHER REPRESENTS TO OWNER THAT THE SHIPYARD AND BUILDER'S OTHER FACILITIES DO NOT HAVE ANY CONDITION OF POLLUTION OR CONTAMINATION THAT COULD GIVE RISE TO LIABILITY OF OWNER GROUP FOR REMEDIATION, CLEANUP, DAMAGES, PENALTIES, OR COSTS OF ANY KIND. BUILDER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD OWNER GROUP HARMLESS AGAINST AND IN RESPECT OF ALL CLAIMS, LOSSES, LIABILITIES, REMEDIATION OR CLEAN-UP COSTS, OR ANY FINES, PENALTIES, ASSESSMENTS, OR EXPENSES WHICH MAY BE IMPOSED UPON, INCURRED BY, OR ASSESSED AGAINST ANY MEMBER OF OWNER GROUP BY ANY OTHER PARTY OR PARTIES (INCLUDING, WITHOUT LIMITATION, A GOVERNMENTAL ENTITY), ARISING OUT OF, IN CONNECTION WITH, OR RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING: (A) BUILDER'S BREACH OF ANY OF THE REPRESENTATIONS SET FORTH ABOVE IN THIS SECTION; AND (B) ANY ENVIRONMENTAL POLLUTION OR CONDITION OF CONTAMINATION AT THE SHIPYARD OR ANY OTHER OF BUILDER'S FACILITIES THAT MAY GIVE RISE TO LIABILITY, EVEN IF NOT DISCOVERED UNTIL A LATER DATE.

25.3 Owner's Indemnification of Builder (Knock for Knock). OWNER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUILDER, ITS PARENT, OFFICERS, AGENTS, EMPLOYEES, SUBSIDIARIES, SUBCONTRACTORS, AFFILIATES, SUCCESSORS, ASSIGNS, INSURERS, AND VESSELS (HEREINAFTER AND BEFORE COLLECTIVELY REFERRED TO AS "BUILDER GROUP") FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, DEMANDS, LOSSES, SUITS, LIENS, CAUSES OF ACTION OF EVERY KIND AND CHARACTER AND THE COSTS THEREOF INCLUDING, WITHOUT LIMITATION, COURT COSTS, ANY OTHER LITIGATION EXPENSES, ATTORNEYS FEES, SETTLEMENTS AND JUDGMENTS, FOR PERSONAL INJURY (INCLUDING, BUT NOT LIMITED TO, CLAIMS, DEMANDS, OR SUITS FOR BODILY INJURIES, EMOTIONAL AND PSYCHOLOGICAL INJURIES, ILLNESSES, DISEASES, DEATH, LOSS OF SERVICES, LOSS OF SOCIETY, DIMINISHED EARNINGS CAPACITY, MAINTENANCE AND CURE, WAGES, WORKER'S COMPENSATION) OR PROPERTY LOSS OR DAMAGE (EXCEPT FOR THE VESSEL, THE MATERIALS OR THE WORK) WHICH ARE BROUGHT AGAINST ANY MEMBER OF BUILDER GROUP BY ANY MEMBER OF OWNER GROUP AND WHICH ARE ALLEGED TO ARISE OUT OF, BE

INCIDENT TO, ARISE IN CONNECTION WITH, OR RESULT FROM OCCURRENCES IN THE COURSE OF OR IN CONNECTION WITH EITHER PARTY'S PERFORMANCE OF THIS AGREEMENT THAT ARISE BEFORE DELIVERY. OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS BUILDER GROUP WHETHER THE SUIT OR CLAIMS ARE OCCASIONED, BROUGHT ABOUT, OR CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, FAULT OR STRICT LIABILITY (INCLUDING UNSEAWORTHINESS) OF BUILDER GROUP, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL TORTIOUS CONDUCT OF THE BUILDER GROUP. OWNER ALSO AGREES TO INDEMNIFY BUILDER GROUP FOR ALL COSTS, EXPENSES, AND ATTORNEYS' FEES EXPENDED BY BUILDER GROUP IN THE ENFORCEMENT OF THIS SECTION 25.3. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OWNER SHALL BE RESPONSIBLE FOR PAYMENT OF THE DEDUCTIBLE UNDER THE BUILDERS RISK INSURANCE POLICY FOR ANY LOSS OR DAMAGE TO THE VESSEL, THE MATERIALS OR THE WORK TO THE EXTENT SUCH LOSS OR DAMAGE IS CAUSED SOLELY BY THE NEGLIGENCE OF OWNER OR ITS AGENTS.

25.4 Owner's Indemnification for Basic Design. OWNER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS BUILDER GROUP FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, DEMANDS, LOSSES, SUITS, LIENS, CAUSES OF ACTION OF EVERY KIND AND CHARACTER AND THE COSTS THEREOF INCLUDING, WITHOUT LIMITATION, COURT COSTS, ANY OTHER LITIGATION EXPENSES, ATTORNEYS FEES, SETTLEMENTS AND JUDGMENTS, FOR PERSONAL INJURY OR PROPERTY LOSS OR DAMAGE WHICH ARE BROUGHT AGAINST ANY MEMBER OF BUILDER GROUP BY ANY MEMBER OF OWNER GROUP OR ANY THIRD PARTY AND WHICH ARE DETERMINED TO BE PROXIMATELY CAUSED BY DEFECTS IN THE BASIC DESIGN AS PROVIDED BY OWNER TO BUILDER, BUT EXPRESSLY EXCLUDING ANY SUCH LIABILITY, CLAIMS, DEMANDS, LOSSES, SUITS, LIENS, CAUSES OF ACTION, AND THE COSTS THEREOF, TO THE EXTENT CAUSED BY BUILDER'S ERRORS, OMISSIONS, DEFECTS, OR FAILURES IN THE PERFORMANCE OF THE WORK, INCLUDING THE WORKMANLIKE PERFORMANCE OF BUILDER'S OBLIGATIONS UNDER ARTICLE 9.

25.5 Indemnification of Attorneys' Fees. The foregoing indemnity obligations shall also include reasonable attorneys' fees, investigation costs, and other costs and expenses incurred by the other Party and/or its Indemnitees with respect to the matters described in this Article.

25.6 Survival of Indemnification Provisions. The indemnification provisions set forth in this Article shall survive the termination of this Agreement.

**Article 26**      **TECHNICAL DISPUTES.**

26.1      **Mutual Intent for Good Faith Resolutions.** The Parties agree that their mutual intent is to resolve any disagreements regarding the design or construction of the Vessel through good faith discussions; and to resolve such disputes promptly, efficiently, and reasonably.

26.2      **Approval Disputes.** Any dispute between the Parties regarding the fitness of the design, plans, or construction of the Vessel, its machinery and equipment, and/or regarding the Materials and/or workmanship with regard to satisfaction of Classification Society Rules or Regulatory Agency requirements (such disputes, "*Approval Disputes*") shall be determined by the Classification Society (acting with or by its assigned surveyor). The decision of the Classification Society as to such matters shall be final, conclusive, and binding upon the Parties. In the event that the Classification Society will not determine such disputes, such disputes shall be determined by a jointly appointed surveyor (the "*Joint Surveyor*"), in which case the decision of the Joint Surveyor as to such matters shall be final, conclusive, and binding upon the Parties. In the event that the Parties cannot agree upon a Joint Surveyor, a Joint Surveyor will be appointed by arbitrators appointed for that purpose in accordance with Article 27.

26.3      **Technical Disputes.** Any other dispute regarding the Materials and/or workmanship in connection with the Vessel, including interpretations of the Specifications (such disputes, "*Technical Disputes*"), shall be referred to the Joint Surveyor. The decision of the Joint Surveyor as to such matters shall be final, conclusive, and binding upon the Parties.

26.4      **Award of Costs of Approval Disputes or Technical Disputes.** The costs of resolving any Approval Dispute or Technical Dispute, including Classification Society charges, Joint Surveyor charges, and delays due to such dispute, shall be for the account of the non-prevailing Party. In the event that both Parties prevail in part, the costs shall be split equally.

**Article 27**      **DISPUTE RESOLUTION AND LIMITATIONS PERIOD**

27.1      **Approval and Technical Disputes.** Approval Disputes and Technical Disputes shall be resolved in accordance with Article 26. Any dispute arising under or related to this Agreement not resolved pursuant to Article 26 shall be resolved in accordance with this Article.

27.2      **Best Efforts to Settle Differences.** If any dispute or controversy between the Parties arises out of or in connection with this Agreement, the Parties agree that they shall use their best efforts to settle their differences by good faith consultations and discussions.

27.3      **Mediation.** If the Parties are unable to resolve the dispute within [\*\*\*], or such longer period as they mutually agree, either Party may call for mediation of the dispute, with such mediation to be held in New York, New York or such other location as may be mutually agreed,



using a disinterested mediator agreeable to both Parties, with the cost of such mediation shared equally by both Parties.

27.4      Arbitration. Any dispute not otherwise resolved by mediation shall be settled by binding arbitration under the Rules of the Society of Maritime Arbitrators, Inc. (the “SMA Rules”) except as modified below or as otherwise agreed by the Parties, with such arbitration to be held in New York, New York or such other location as may be mutually agreed.

27.5      Time Limit for Notice of Claims. Except for warranty claims subject to the notification requirements set forth in Article 14, notice of any claim for relief of either Party against the other for breach of any obligation or duty arising under this Agreement or relating to the subject matter of this Agreement shall be given within [\*\*\*] after Delivery of the final Vessel under this Agreement. Failure to bring such claims within such period shall result in such claims being barred and forever waived.

27.6      Commencement of Arbitration. Arbitration shall be commenced by either Party by written notice (a “Notice of Arbitration”) to the other Party within [\*\*\*] after mediation is conclusively terminated. Such Notice of Arbitration shall state the issue to be arbitrated and identify the Party’s appointed arbitrator.

27.7      Response to Notice of Arbitration. The other Party shall, by written notice within [\*\*\*] after receipt of the Notice of Arbitration, appoint a second arbitrator. If the other Party shall fail to appoint a second arbitrator within that time period, the first appointed arbitrator shall serve as sole arbitrator of the dispute. If the other Party does timely appoint a second arbitrator, the two Party-appointed arbitrators shall select a third arbitrator in accordance with the SMA Rules. The Party-appointed arbitrators shall jointly provide a written notice of the selection of the third arbitrator to both Parties within [\*\*\*] after such selection. The selected third arbitrator shall serve as chairman of the arbitration panel. The arbitration panel shall hold an arbitration hearing within [\*\*\*] after the appointment of the third arbitrator.

27.8      Qualifications of the Arbitrators.

- (a)      An arbitrator may not have any direct or indirect financial or personal interest in the outcome of the arbitration.
- (b)      An arbitrator may not have acquired from an interested source detailed prior knowledge of the matter in dispute.
- (c)      An arbitrator may not have any close personal ties or business relations with any one of the Parties to the arbitration, any Affiliate or associated companies

of either of the Parties, any counsel for either of the Parties, or any immediate family members of the foregoing Persons.

- (d) An arbitrator need not be a member of the Society of Maritime Arbitrators, Inc., but must have familiarity with vessel construction issues.

27.9 Conduct of the Arbitration. To the extent permitted by the SMA Rules and the arbitrators, any arbitration under this Agreement shall be conducted as follows:

- (a) *Expedited Proceedings.* Because time is of the essence under this Agreement, the arbitrators shall be requested to undertake proceedings on an expedited basis so that a prompt decision of the question or questions can be announced by the arbitrators to the Parties. The Parties shall use their reasonable best efforts to have the arbitral proceeding concluded and an award rendered by the arbitrator(s) within [\*\*\*] of the initiation of the arbitration proceeding.
- (b) *Discovery.* Upon the selection of the arbitrators, each of the Parties shall be entitled to commence reasonable discovery through exchange of documents and requests for admissions, subject to the sole discretion of the arbitrators.
- (c) *Claims of [\*\*\*].* Notwithstanding anything in this VCA to the contrary, any dispute relating to claims of [\*\*\*] or less in the aggregate shall be governed by the Shortened Arbitration Procedure of the SMA Rules.

27.10 Arbitration Award. The arbitration panel shall render a reasoned award including a provision for payment of costs and expenses of arbitration to be paid by one or more of the Parties hereto, as the arbitration panel deems just. The arbitrators shall be entitled to award interest, but shall not be entitled to award indirect, punitive, incidental, consequential, or exemplary damages of any kind or nature. In the event of any arbitration award rendered prior to Delivery of the Vessel, the award shall include a finding as to whether or not the Delivery Date of the Vessel is in any way altered thereby. The decision of the arbitration panel shall be final and binding on the Parties hereto, and judgment may be entered thereon in any court having jurisdiction.

27.11 Confidentiality of Arbitration Awards. Notwithstanding any contrary provisions in the SMA Rules, the arbitration award shall be withheld from publication.

27.12 Right to Equitable and Provisional Relief. Nothing in this Article shall be deemed to limit or otherwise restrict the right of either Party to seek injunctive or other equitable relief in any court of competent jurisdiction or to seek provisional relief from any court of competent jurisdiction to preserve their respective rights pending arbitration, and in seeking such relief shall not waive the right of arbitration.

**Article 28            PUBLICITY AND DISCLOSURES.**

28.1            Use of Photographs. Subject to Owner’s prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed, Builder may use photographs of the Vessel during construction and following Delivery in its promotional materials.

28.2            Cooperation with Regard to Marketing Activities. Without limitation to the foregoing and subject to the Parties’ respective intellectual property rights and business activities, the Parties agree to cooperate with regard to the marketing of the Vessel, including hosting of representatives of trade publications, appearances at public events, and similar activities and events. Nothing herein is intended to require either Party to forego business activities or incur uncompensated expenses for the purposes of marketing activities.

**Article 29            AUDITS**

29.1            Limited Audit Rights. Owner shall have the limited right to audit the construction, procurement, and accounting records related to the construction of the Vessel under this Agreement as may be reasonably necessary to enforce or protect Owner’s rights under this Agreement with regard to claimed escalation or as otherwise permitted herein. Builder shall not be required to provide pricing information except in connection with claims by either Party including or based upon such pricing information.

29.2            Terms of Audit Rights. Such audits shall be conducted at Owner’s expense and upon reasonable notice and upon reasonable terms and conditions.

**Article 30            MISCELLANEOUS**

30.1            Entire Agreement. This Agreement, which includes the Exhibits listed below, all duly executed Change Orders (if any), and amendments or modifications to any of the foregoing or to this Agreement, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any and all other prior promises, correspondence, agreements, discussions, representations, and understandings, whether oral or written. No other agreements, promises, correspondence, discussions, representations, or understandings, either express or implied, unless expressly set forth herein, are binding between the Parties.

30.2            Due Authority. Each Party represents and warrants that its execution of this Agreement is duly authorized by all necessary corporate actions and resolutions.

30.3            Binding Affect. This Agreement shall be binding on and inure to the benefit of the Parties and their heirs, legal representatives, executors, successors, and permitted assigns.

30.4 **No Waivers.** Except with respect to the time limitations set forth in Article 14 and Article 27 concerning warranty claims and dispute resolution procedures, no delay or omission on the part of either Party in exercising or enforcing any right hereunder shall operate or be construed as a waiver or bar to enforcement of such right on that occasion or on any other or future occasion, or a waiver or bar to enforcement of any other right or future right of a Party hereunder on any other or future occasion.

30.5 **Severability.** Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

30.6 **Headings.** The headings in this Agreement are inserted for convenience only and are not to be considered in the construction or interpretation of the provisions of this Agreement.

30.7 **Modification.** No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the Party against whom such amendment, change or modification is sought to be enforced.

30.8 **Drafting.** This Agreement has been drafted and negotiated by both Parties, each with advice of counsel. For purposes of interpretation and enforcement, this Agreement shall be considered to have been drafted jointly by the Parties.

30.9 **Duplicate Originals.** This Agreement may be executed in duplicate originals and any true and complete copy shall be deemed an original for any purpose in which an original might otherwise be required.

30.10 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be effective only upon delivery to the other Party, and each of which shall be taken to be one and the same Agreement as if all the Parties had signed the same Agreement. The Parties may manually execute this Agreement, but each Party agrees that a facsimile, PDF, or other electronic transmission of such signature shall be deemed binding on each Party, and the Parties agree not to contest the validity of this Agreement by reason of the fact that a manually executed copy has not been delivered.

30.11 **Governing Law.** This Agreement and any disputes arising in connection herewith shall be governed, without consideration of conflicts of law, by and construed in accordance with the laws of the State of New York. In no event shall this Agreement be subject to or interpreted in accordance with the United Nations Convention on Contracts for the International Sale of Goods.

- (a) The Parties acknowledge and agree that certain information relating to each of them that may be disclosed to or otherwise acquired by the other in connection with this Agreement and the negotiations leading up to its execution by the Parties, may constitute material, confidential, and non-public information, which shall be governed by the Confidentiality Agreement. To the extent of any conflict between this Agreement and the Confidentiality Agreement, this Agreement will govern.
- (b) Except to the extent required by law, neither Party will make any announcement or disclosure of the fact that such discussions have occurred, or of the terms of this Agreement without the other Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.
- (c) Each Party shall be permitted to make press releases or other disclosures as may be required by law in the reasonable opinion of each Party's Securities Counsel upon advance written notice to the other Party.
- (d) Notwithstanding anything to the contrary in the Confidentiality Agreement, the Parties agree that (i) Confidential Information (as defined in the Confidentiality Agreement) of Owner may be disclosed by Builder to third parties as may be required for the design and construction of the Vessel; and (ii) Confidential Information of Builder may be retained and copied by Owner or any transferees of the Vessel for the life of the Vessel and may be disclosed by such parties to third parties as may be required in connection with the design, operation, repair, modification, chartering, insuring, financing, and sale of the Vessel; provided that in each case Builder or Owner or such transferee enters into a confidentiality agreement providing substantially the same protections as in the Confidentiality Agreement and this Section 30.12.
- (e) In the event that this Agreement remains in effect later than February 2026, the Parties agree to extend the Confidentiality Agreement through the termination of this Agreement.
- (f) The foregoing confidentiality provisions shall survive the completion, termination, or expiration of this Agreement.

**Execution Follows:**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their proper authorized representatives, thereunto duly authorized.

**BUILDER**

PHILLY SHIPYARD, INC.

Dated:

Name: Steinar Nerbovik  
Title: President & Chief Executive Officer

**OWNER**

GREAT LAKES DREDGE & DOCK COMPANY, LLC

Dated:

Name: Lasse Petterson  
Title: Chief Executive Officer & President

**LIST OF SCHEDULE AND EXHIBITS**

Schedule X	Definitions
Exhibit A	Specifications
Exhibit B	Owner Furnished Equipment
Exhibit C-1	Form of Stage Completion Certificate
Exhibit C-2	Form of Builder's Invoice
Exhibit D-1	Form of Builder's Lien Release
Exhibit D-2	Form of Subcontractors' and Suppliers' Lien Release
Exhibit E	Form of Certificate of Completion and Delivery
Exhibit F	Form of Change Order
Exhibit G	Form of Warranty Claim Notification
Exhibit H	Builder's Preliminary Schedule
Exhibit I	Form of Protocol of Delivery and Acceptance
Exhibit J	Form of Builder's Corporate Parent Guarantee
Exhibit K	Form of Shipyard Contract Deficiency Report
Exhibit L	Outstanding Comments of the Classification Society
Exhibit M	Builder's Warranty Procedures
Exhibit N	Single Source Vendor Prices Included in Original Contract Price
Exhibit O	Interim Installment and Stage of Completion Schedule Vessel
Exhibit P	Basic Design Package

**SCHEDULE X****DEFINITIONS**

Capitalized terms used in this Agreement shall have the meanings set out below. Terms not defined in this Schedule X or otherwise in this Agreement shall have their common meanings.

“**Affiliates**” means for purposes of this Agreement any entity that controls, is controlled by, or is under common control with another entity. An entity is deemed to control another if it owns directly or indirectly at least fifty percent (50%) of (i) the shares entitled to vote at a general election of directors of such other entity, or (ii) the voting interest in such other entity if such other entity does not have either shares or directors.

“**Agreement**” has the meaning defined in the Preamble.

“**Alternative Compliance Program**” or “**ACP**” means the Coast Guard program authorizing certain organizations, including the Classification Society, to carry out certain vessel plan review and inspection activities on behalf of the Coast Guard, pursuant to 46 U.S.C. § 3316 and 46 CFR part 8, subpart D, §§ 8.400 et seq.

“**Announced Regulatory Amendment**” shall mean an announcement by a Regulatory Authority of an upcoming change in a rule or regulation applicable to the Vessel that has an established effective date and has been publicly promulgated by means of a Circular issued by the IMO or an IMO Committee, or similar announcement from the Classification Society, or a Final Rule issued by a Regulatory Authority.

“**Approval Disputes**” has the meaning defined in Section 26.2.

“**Base Rates**” has the meaning defined in Section 3.4(f).

“**Basic Design**” means the design of a subsea rock installation vessel, as further described and specified in the Specifications and other Contract Documents and shall include all documents embodying such design and all Intellectual Property embodied in such design documents, as specified in the Contract Documents and detailed in Exhibit P.

“**Builder**” has the meaning defined in the Preamble.

“**Builder Group**” has the meaning defined in Section 25.3.

“**Builder Personnel**” means all employees of Builder and the employees of any Subcontractor of Builder, at any tier.

Exhibit P - 1



“**Builder’s Corporate Parent Guarantee**” means a corporate parent guarantee to be provided by Builder’s corporate parent to Owner pursuant to Section 6.2, substantially in the form of Exhibit J, or as otherwise reasonably acceptable to Owner.

“**Builder’s Representative**” means those Persons designated in writing by Builder to act as Builder’s representative and act on behalf of Builder as its primary point of contact in connection with this Agreement and the Work.

“**Builder’s Warranty Procedures**” has the meaning defined in Section 14.4, and are attached as Exhibit M.

“**Certificate of Completion and Delivery**” has the meaning defined in Section 4.8.

“**Certificate of Inspection**” means a certification of United States vessel inspection issued by the Coast Guard by either a Coast Guard Form CG-841 Certificate of Inspection or a Coast Guard Form CG-854, Temporary Certificate of Inspection.

“**Change Order**” means a written instrument prepared by Builder and signed by Owner and Builder, stating their agreement upon: (1) a change in the Work; (2) the amount of the adjustment in the Contract Price for the Vessel, if any; and (3) the extent of the adjustment in the Delivery Date, if any.

“**Classification Society**” means the American Bureau of Shipping, commonly referred to as “ABS.”

“**Coast Guard**” or “**USCG**” means the United States Coast Guard.

“**Confidentiality Agreement**” means the Confidentiality Agreement between the Parties dated as of [\*\*\*].

“**Contract Documents**” has the meaning defined in Section 2.4.

“**Contract Drawings**” means the contract drawings listed in an addendum to the Specifications showing the design and construction of the Vessel as further described in the Specifications.

“**Contract Price**” means the price for the Vessel to be constructed and all related Work pursuant to this Agreement as shown in Section 3.1, including any Modifications thereto and any price adjustments allowed by this Agreement.

“**Days**” means Gregorian Calendar days, unless otherwise defined. Each Day shall be a single twenty-four hour period commencing at 12:00 a.m., local time at the Shipyard at Philadelphia, Pennsylvania.

Exhibit P - 2

**“Delivery”** means Builder’s transfer of possession and Owner’s acceptance of the Vessel completed in accordance with the Contract Documents, subject to the warranties set forth in Article 14, as evidenced by Builder’s and Owner’s execution of a Protocol of Delivery and Acceptance in the form of Exhibit I.

**“Delivery Documents”** has the meaning defined in Section 13.13(g).

**“Delivery Date”** means the date on which Builder is required to deliver the Vessel to Owner as shown in Section 1.8, subject to extensions through Permissible Delays pursuant to Article 16.

**“Delivery Payment”** means the final payment to be made by Owner to Builder in connection with the construction of the Vessel.

**“Delivery Point”** means the location at which the Delivery of the Vessel is to be made in accordance with Section 13.16, which shall be Builder’s Shipyard located in Philadelphia, PA, or such other location as may be mutually agreed.

**“Designer”** means [\*\*\*].

**“Detailed Design”** has the meaning defined in Section 7.4.

**“Dock Trials”** means the testing of any portion of the Work by Builder or Owner prior to, and as a condition of, Delivery as described in Section 13.1(a) and in the Specifications.

**“Effective Date”** shall be the date on which the later of the following events have occurred: (i) this Agreement has been signed by both Parties, and (ii) Owner has made payment of the initial Interim Installment Payment to Builder.

**“EPA”** means the United States Environmental Protection Agency.

**“Factory Acceptance Test”** means those tests conducted to determine that equipment or other Materials comply with the applicable specifications and contractual requirements prior to shipment to the Shipyard.

**“Final Rule”** means a rulemaking by a United States regulatory agency that has been promulgated by such agency as a final rule binding upon the regulated community.

**“First Refusal Right”** has the meaning defined in Section 1.9(a).

**“FRR Builder Notice”** has the meaning defined in Section 1.9(a).

**“FRR Owner Notice”** has the meaning defined in Section 1.9(b).

Exhibit P - 3

“**FRR Period**” has the meaning defined in Section 1.9(a).

“**Force Majeure**” has the meaning defined in Section 16.2.

“**Grace Period**” has the meaning defined in Section 17.2.

“**Good Shipbuilding Practice**” as used herein, means the construction of a vessel in accordance with all applicable flag state regulations and Classification Society Rules using those vessel construction practices and work management systems employed by competent and well-qualified commercial vessel builders, with due consideration to good quality, incorporating the specified components to meet Specification requirements, utilizing construction and testing methods to ensure that the completed Vessel will conform to the Contract Documents.

“**Guarantor**” has the meaning defined in Section 6.3.

“**IMO**” means the International Maritime Organization.

“**Initial Vessel**” has the meaning defined in Section 1.9(c).

“**Intellectual Property**” means all trade names, trademarks, service marks, and other identifying names or source indicia associated with the Work, whether registered or unregistered, and including all goodwill relating to any of the foregoing, and all applications for any of the foregoing; all patents, copyrights, including any design copyrights protected pursuant to 17 U.S.C. § 1301, et seq., copyright registrations and patent applications for the foregoing, together with all divisions, renewals, and continuations of any of the foregoing, and all know-how, unpatented inventions, trade secrets, and other intellectual property embodied in or pertaining to the Work or the Basic Design.

“**Interim Installment Payment**” means a payment due upon completion of a Stage of Completion in accordance with Section 4.1(a) and Exhibit O.

“**IP Claims**” has the meaning defined in Section 22.1.

“**Joint Surveyor**” has the meaning defined in Section 26.3.

“**Labor Agreements**” has the meaning defined in Section 16.6.

“**Letter of Credit**” has the meaning defined in Section 6.2(a).

“**Lien**” means any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest) and any option, trust, or other

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preferential arrangement having the practical effect of any of the foregoing.

“**Lien Release**” means a lien release in favor of the Vessel and Owner, executed by Builder, in the form of Exhibit D.

“**Liquidated Damages**” means those amounts by which the Contract Price is to be reduced pursuant to Article 17 due to the late delivery of the Vessel

“**Major Equipment**” means all items with a purchase cost of [\*\*\*] or greater, and also includes without regard to cost all engines, gearboxes, and the hydraulic system as referenced in the Specifications.

“**Makers List**” has the meaning defined in Section 9.17(a).

“**Materials**” means everything, other than OFE, that is required for the construction and Delivery of the Vessel in compliance with the Specifications, including, without limitation, all materials, supplies, machinery, machinery parts, equipment, electronics, hardware, piping, coatings, primers, paints, timber, ferrous and non-ferrous plate, shapes, and other tangible items that are incorporated or used in, or that are identified to or intended to be incorporated or used in, the construction of the Vessel.

“**Material Non-Conformities**” has the meaning defined in Section 13.11.

“**Material Subcontract**” means any contract of Builder with a Subcontractor, Supplier, or other vendor in connection with the Work with a value in excess of [\*\*\*].

“**Material Subcontractor or Supplier**” means Subcontractor or Supplier of Builder providing goods and/or services in excess of [\*\*\*] in respect of the Work.

“**Minor Non-Conformities**” has the meaning defined in Section 13.9.

“**Mission System**” has the meaning defined in Section 13.2.

“**Modification**” means: (1) a written amendment to this Agreement signed by both Parties, or (2) a Change Order.

“**Monthly Status Report**” has the meaning defined in Section 8.11.

“**New Tariffs and Duties**” has the meaning defined in Section 5.5.

[\*\*\*]

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[\*\*\*]

“**Notice of Arbitration**” has the meaning defined in Section 27.6.

“**Owner**” has the meaning defined in the Preamble.

“**OFE**” means owner-furnished equipment, which means those items and Materials furnished by Owner to be installed in the Vessel by Builder as part of the Work as identified in Exhibit B.

“**Owner Group**” has the meaning defined in Section 25.1.

“**Owner Personnel**” means all employees of Owner, Owner's Representative, and the employees of any subcontractor of Owner (excluding Builder Personnel), at any tier.

“**Owner's Representative**” means those Persons designated in writing by Owner to represent and act on behalf of Owner as described more fully in Section 11.1. as Owner's primary point of contact in connection with this Agreement and the Work.

“**Parties**” refers to Owner and Builder collectively, and “**Party**” means either of them individually.

“**Permissible Delay**” has the meaning defined in Section 16.1.

“**Person**” means an individual, or any corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or agency or political subdivision thereof (including any subdivision or ongoing business of any such entity).

“[\*\*\*]” has the meaning defined in Section 4.12.

“**Production Design**” has the meaning defined in Section 7.6.

“**Project Schedule**” has the meaning defined in Section 8.1 and more fully described in Article 8.

“**Protocol of Delivery and Acceptance**” means a document in the form of Exhibit I to be executed by Builder and Owner upon Delivery of the Vessel.

“**Purchase Technical Specifications**” has the meaning defined in Section 9.19.

“**Regulatory Authorities**” as used herein means the Coast Guard, the Classification Society, the U.S. Public Health Service, the International Maritime Organization, United States Customs and Border Protection, the EPA, and any other applicable governmental body or agency responsible

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for ensuring the Vessel's compliance with all requirements imposed by United States law and regulations, international conventions, and the Classification Society, or any other legal or regulatory requirement applicable to the Vessel (each a "Regulatory Authority").

"**Remedial Action Plan**" has the meaning defined in Section 18.2(c).

"**Retained Amount**" has the meaning defined in Section 13.2.

"**ROFR Vessel**" has the meaning defined in Section 1.9.

"**ROFR Vessel Price**" has the meaning defined in Section 3.2.

"**Sea Trials**" means those trials as described in Section 13.1(c) and in the Specifications.

"**Shipyard**" means collectively those shipyards and ancillary facilities owned, leased, or used by Builder in connection with the Work under this Agreement.

"**Shipyard Contract Deficiency Report**" means a report in the form set out in Exhibit K.

"**SMA Rules**" has the meaning defined in Section 27.4.

"**Specifications**" means the specifications attached hereto as Exhibit A.

"**Stage Completion Certificate**" means a certificate, in the form set forth in Exhibit C-1, attesting to the completion of each stage of the Work as referred to in Section 4.2 and corresponding to the Interim Installment Schedule set forth in Exhibit K.

"**Structural Steel**" has the meaning defined in Section 3.4(b).

"**Subcontractor**" means any Person other than an employee of Builder, engaged by Builder to execute any part of the Work under this Agreement on behalf of Builder.

"**Supplier**" means any Person responsible for the supply, manufacture, construction, installation, or delivery to Builder of any of the Materials.

"**System Tests**" has the meaning defined in Section 13.2.

"**Technical Disputes**" has the meaning defined in Section 26.3.

"[\*\*\*]" has the meaning defined in Section 3.4(g).

"**Trials**" means the testing of any portion of the Work by Builder or Owner prior to, and as a condition of, Delivery as described in Section 13.1 and in the Specifications.

“**Vessel**” means the vessel to be designed and constructed in accordance with the Contract Documents.

“**Warranty Period**” as used herein means the three hundred and sixty-five (365) Day period following Delivery of the Vessel, or in the case of a warranty given by a third party, such period specified in such warranty, but not less than the three hundred and sixty-five (365) Day period following Delivery of the Vessel.

“**Work**” as used herein, means the work required to be performed by Builder in accordance with the Contract Documents, whether performed by Builder or any Subcontractor and whether completed or partially completed, and includes all labor, Materials, equipment and services provided or to be provided by or on behalf of Builder to fulfill Builder's obligations hereunder. The Work shall also include Builder's obligation to pay in due course for all such labor, Materials, equipment, and services provided or to be provided on behalf of Builder to fulfill Builder's obligations hereunder.

“**Working Days**” means “business days,” Monday through Friday, excluding weekends and national or state recognized holidays applicable to the local jurisdiction in which the Work is performed.

**\*EXHIBITS HAVE BEEN OMITTED PURSUANT TO ITEM 601(a)(5) OF REGULATION S-K. THE REGISTRANT AGREES TO FURNISH A COPY OF ANY SCHEDULE OR EXHIBIT TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.**

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*GLDD Vessel Construction Agreement  
For Subsea Rock Installation Vessel*

## SUBSIDIARIES OF THE REGISTRANT

<u>Name</u>	<u>Jurisdiction of Incorporation</u>
Great Lakes Dredge & Dock Company, LLC	Delaware
Great Lakes U.S. Fleet Management, LLC	Delaware
Great Lakes Environmental & Infrastructure Solutions, LLC	Delaware
Great Lakes Dredge & Dock do Brasil Ltda.	Brazil
Great Lakes Dredge & Dock (Bahamas) Ltd.	Bahamas
NASDI Holdings, LLC	Delaware
Terra Contracting Services, LLC	Delaware
Terra Fluid Management, LLC	Delaware
Drews Services LLC	South Carolina



**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement No. 333-153207 on Form S-3 and Registration Statement Nos. 333-150067, 333-185350 and 333-218242 on Form S-8 of our reports dated February 23, 2022, relating to the financial statements of Great Lakes Dredge & Dock Corporation and subsidiaries (the “Company”) and the effectiveness of the Company’s internal control over financial reporting, appearing in this Annual Report on Form 10-K of Great Lakes Dredge & Dock Corporation for the year ended December 31, 2021.

/s/ Deloitte & Touche LLP

Chicago, Illinois  
February 23, 2022

CERTIFICATIONS PURSUANT TO  
SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002

## CERTIFICATION

I, Lasse J. Petterson, certify that:

1. I have reviewed this annual report on Form 10-K of Great Lakes Dredge & Dock Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2022

/s/ LASSE J. PETTERSON

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Lasse J. Petterson  
President and Chief Executive Officer

CERTIFICATIONS PURSUANT TO  
SECTION 302 OF  
THE SARBANES-OXLEY ACT OF 2002

## CERTIFICATION

I, Scott Kornblau, certify that:

1. I have reviewed this annual report on Form 10-K of Great Lakes Dredge & Dock Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2022

/s/ SCOTT KORNBLAU

Scott Kornblau

Senior Vice President, Chief Financial Officer and Treasurer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Great Lakes Dredge & Dock Corporation (the "Company") on Form 10-K for the year ended December 31, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Lasse J. Petterson, President and Chief Executive Officer of the Company, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by Great Lakes Dredge & Dock Corporation for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

/s/ LASSE J. PETERSON

Lasse J. Petterson  
President and Chief Executive Officer  
Date: February 23, 2022

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Great Lakes Dredge & Dock Corporation and will be retained by Great Lakes Dredge & Dock Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Great Lakes Dredge & Dock Corporation (the "Company") on Form 10-K for the year ended December 31, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Scott Kornblau, Senior Vice President and Chief Financial Officer of the Company, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by Great Lakes Dredge & Dock Corporation for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

/s/ SCOTT KORNBLAU

\_\_\_\_\_  
Scott Kornblau

Senior Vice President, Chief Financial Officer and Treasurer

Date: February 23, 2022

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Great Lakes Dredge & Dock Corporation and will be retained by Great Lakes Dredge & Dock Corporation and furnished to the Securities and Exchange Commission or its staff upon request.