UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:	)	**Chapter 11**
VANTAGE TRAVEL SERVICE, INC.,	)	**Case No. 23-11060**
Debtor.	)	

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION FOR APPOINTMENT OF A CHAPTER 11 TRUSTEE OR, ALTERNATIVELY, CONVERSION TO A CASE UNDER CHAPTER 7
[Emergency Determination Requested]

The Official Committee of Unsecured Creditors of Vantage Travel Service, Inc. (the "Committee") files this motion (the "Motion") requesting entry of an order appointing a disinterested individual to serve as a chapter 11 trustee of Vantage Travel Service, Inc. (the "Debtor") or, alternatively, to convert this case to a case under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code"). There is no appreciable daylight between the Debtor and its owner/lender entities, Mr. Henry R. Lewis ("Mr. Lewis") and the Henry R. Lewis Trust u/d/t dated September 23, 2004 (the "Trust" and together with Mr. Lewis, the "Owner/Lender Entities"), and the Committee has lost confidence in the ability of the Debtor's management to operate independently from the Owner/Lender Entities.

PRELIMINARY STATEMENT

1. The Committee requests that this Court appoint a chapter 11 trustee for cause under section 1104(a)(1) of the Bankruptcy Code and because it is in the best interests of the estate and its stakeholders under section 1104(a)(2) of the Bankruptcy Code. The Committee makes this request based on the belief that the Debtor's management is not acting independently of the Owner/Lender Entities and, instead, is acting in the Owner/Lender Entities' interests to the

detriment of the estate and creditors.

2. All chapter 11 cases have inflection points. However, since appointment of the Committee, this case has moved from crisis to crisis by virtue of the Owner/Lender Entities' threats to seek conversion to a case under chapter 7 if their self-serving demands were not met—and the Debtor's apparent acquiescence to this. Like clockwork, a demand would be made upon threat of conversion before whatever hearing was coming next, creating a "crisis of the moment" manufactured by the Owner/Lender Entities, with the Debtor doing their bidding. This strategy first tainted cash collateral negotiations and is now overwhelming plan development and solicitation. If it is permitted to continue, then it will harm the interests of all creditors other than the Owner/Lender Entities, who will benefit from a quick chapter 11 plan process handing over property that they are not entitled to have. This Motion must be granted to remove the Debtor from possession, end the Owner/Lender Entities' domination of the Debtor and this case, and install a fiduciary to oversee distribution of assets as provided for under the Bankruptcy Code—not in blind obedience to the Owner/Lender Entities.

3. Lastly, the Committee requests that this Motion be determined on an emergency basis. There is no business deal resolving the Committee's pending objection to solicitation of the pending chapter 11 plan. A challenge to the Owner/Lender Entities' alleged secured claim is almost certain (as discussed below). Confirmation is unlikely to occur on the timetable demanded by the Owner/Lender Entities. And continued efforts to pursue the Debtor's misguided path confirming the Owner/Lender Entities' chapter 11 plan will lead to waste of estate assets. Hearing this Motion on an emergency basis would, if the Motion is granted, save estate resources by bringing a prompt end to useless proceedings whose aim is to benefit the Owner/Lender Entities.

JURISDICTION, VENUE, AND STATUTORY BASIS FOR RELIEF

4. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.

5. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).

6. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

7. The statutory basis for relief includes sections 1104 and 1112 of the Bankruptcy Code and Rules 1017 and 2007.1 of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

8. On June 29, 2023 (the "Petition Date"), the Debtor filed a voluntary petition with this Court commencing this case. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor continues to manage its business and financial affairs as a debtor-in-possession.

9. The United States Trustee (the "UST") did not appoint an official committee of unsecured creditors in this case (the "Committee") in a final form until August 8, 2023. The Committee is comprised of five creditors. Four are former customers of the Debtor and one is a trade creditor. The Committee has adopted by-laws and conducted meetings relevant to its business and affairs.

10. The Committee has considered the facts and circumstances related to the relief requested in this Motion at a meeting attended by all members of the Committee. The Committee considered the benefits and disadvantages of filing this Motion and ultimately determined, in its business judgment, that filing this Motion was in the best interests of general unsecured creditors.

11. The Committee was formed later than is typical and, therefore, did not participate in many key events prior to its formation. This includes proceedings related to the Debtor's initial request for secured financing and use of cash collateral [Dkt. No. 7] (the "Financing Motion"), a motion to establish bidding and marketing procedures [Dkt. No. 6] (the "Sale Procedures Motion"), a motion to sell substantially all assets [Dkt. No. 3] (the "Sale Motion" and together

with the Financing Motion and Sales Procedures Motion, the "Key First Day Motions"), or, among other things, an auction of the Debtor's assets (the "Auction"). The Debtor supported the Key First Day Motions with a declaration of its chief operating officer Gregory Del Greco [Dkt. No. 14] (the "Del Greco Declaration") and a declaration of an investment banker apparently retained by the Owner/Lender Entities [Dkt. No. 15] (the "I-Banker Declaration" and together with the Del Greco Declaration, the "Declarations"). Reference is made to the Key First Day Motions, the Declarations, and the allegations set forth therein.

12. On July 26, 2023, the Court entered the second interim financing order [Dkt. No. 145] (the "Second Interim Order") pursuant to which the Owner/Lender Entities disclaimed a prepetition security interest in funds of customers paid to the Debtor on and after May 12, 2023—namely funds in the amount of $2,119,139.81 held in a deposit account titled to the Debtor with JP Morgan Chase Bank in an account ending in 7629 and disclosed in the Debtor's Statement of Financial Affairs filed on July 21, 2023 [Dkt. No. 109, p. 140, item 21] (the "Customer Deposit Funds"). Additionally, the Debtor has asserted that the Customer Deposit Funds are not property of the estate even though its Sale Motion proposed selling such funds and notwithstanding the Debtor's historical practice of depositing funds from customers in its operating account(s) for use as working capital.

13. On July 31, 2023, the UST filed an emergency motion seeking to appoint a trustee or convert this case to one under chapter 7 [Dkt. No. 162] (the "UST Trustee Motion"). The UST Trustee Motion is incorporated herein. The UST contended, among other things, that the Debtor was moving too quickly to sell its assets and had manufactured a cash availability crisis by taking the position that Customer Deposit Funds were excluded from the estate under section 541(b) of the Bankruptcy Code in the absence of facts supporting such a conclusion.

14. On August 3, 2023, JPMorgan Chase Bank, N.A. filed an objection to the Sale

Motion [Dkt. No. 189] (the "JPM Objection") also asserting that the Customer Deposit Funds were not subject to a trust or excluded from the Debtor's estate.

15. On August 8, 2023, the Debtor filed a reply [Dkt. No. 222] to pending objections to the Sale Motion informing parties that the Customer Deposit Funds would not be sold pending a determination of rights.

16. On August 25, 2023, the Committee filed an objection to the UST Trustee Motion [Dkt. No. 321]. The Committee had recently been formed and, at that time, believed that there was a reasonable prospect that the parties could work together to cost-effectively resolve disputes in this case in a value-maximizing manner for all parties. Such objection was based on the limited information known to the Committee, as it had not yet received any diligence materials from the Debtor.

17. Since that time, the Committee has lost confidence in the Debtor's management and its ability to operate independently of the Owner/Lender Entities. The following allegations review the reasons for this. They are not an attempt to obtain judicial relief as to the issues raised but the facts and circumstances are directly relevant to why there is cause to appoint a trustee and why it is in the best interests of stakeholders that an independent fiduciary be appointed.

Cash Collateral

18. The Court is aware that cash collateral negotiations moved in fits and starts. This resulted in entry of a final cash collateral order on September 19, 2023 [Dkt. No. 379] (the "Cash Collateral Order").

19. The primary point the Committee wishes to bring to the Court's attention is that the Owner/Lender Entities manufactured crisis after crisis during these negotiations with the constant threat of conversion, which would have prevented the Committee from beginning any substantive work. The Owner/Lender Entities further threatened conversion unless the

Committee agreed to stop most of its investigative activity (with a promise to preserve the Committee's investigative rights). The Debtor acquiesced to the Owner/Lender Entities' strategy and also apparently delayed production of key documents directly relevant to cash collateral negotiations—namely the loan and security documents between the Debtor and Owner/Lender Entities, which significantly hampered the Committee.

20. The Committee made the business decision to continue in those negotiations based on the determination that general unsecured creditors benefited from the Committee's work commencing and with the expectation that there would subsequently be substantive and meaningful plan negotiations in the hope of a quick resolution to this case. The Committee is not seeking to "retrade" that deal in this Motion but notes that negotiations over cash collateral, including the Debtor's acquiescence to self-serving demands of the Owner/Lender Entities, contributed to the Debtor's lack of confidence that the Debtor's management is independent from the Owner/Lender Entities. Certainly, the Debtor participated in discussions—but the Committee could discern little daylight between the Debtor and the Owner/Lender Entities.

Production of Documents and Information

21. The Committee has encountered significant difficulty obtaining access to documents and information that the Committee believes are reasonably necessary for it to complete its Perfection Challenge (as defined in the Cash Collateral Order), to address certain potential confirmation issues, and to fulfill its statutory duties under section 1103 of the Bankruptcy Code. The difficulties that the Committee has encountered have caused it to lose confidence in the Debtor's management and its independence from the Owner/Lender Entities.

22. First, the Committee's initial written request to the Debtor for copies of loan and security documents with the Owner/Lender Entities was made on August 31, 2023. Despite subsequent request, certain of these documents were not provided until September 18, 2023—

after the hearing approving entry of the Cash Collateral Order—and others were provided after a hearing held September 26, 2023 (the "Sept. 26 Hearing") in which the Court advised that it would grant an emergency motion for shortened discovery. Among these documents are four promissory notes, including the pending amended and restated promissory note. These documents are collectively attached hereto as **Exhibit A** (the "Notes"). Also among these documents is the document alleged to be a security agreement granting a security interest to secure obligations under the Notes (the "Security Agreement"), a copy of which is attached as **Exhibit B**. Based on the Notes and the Security Agreement, it appears that on or about October 12, 2022, within one year prior to the Petition Date, the Owner/Lender Entities caused the Debtor to execute an amended and restated promissory note rolling up any advances by affiliates to the Debtor into the promissory note delivered to the Owner/Lender Entities—and making previously unsecured debt a secured obligation. The Committee is not aware of any prior disclosure of this information to the Court—even though the Debtor's cash collateral stipulation [Dkt. No. 376] (the "Cash Collateral Stipulation") waived claims against any affiliates related to the Prepetition Debt (as defined in the Cash Collateral Stipulation).

23. Second, late on September 7, 2023, the Committee sent robust and detailed document requests. The Committee did so because it understood that the Debtor intended to propose a chapter 11 plan that would provide releases of claims against the Owner/Lender Entities[1] in a chapter 11 plan process that was, regardless of the Committee's view, going to be expedited. No documents were produced—not even those that would now indisputably be within the scope of the Perfection Challenge (as defined in the Cash Collateral Order). Instead, as the Court is aware, the Owner/Lender Entities did an about-face 24 hours prior to a hearing on

[1] From the start, the Owner/Lender Entities have taken the position that it would violate Rule 11 to ever bring a claim against the Owner/Lender Entities.

September 13, 2023, threatening conversion unless the Committee agreed to forego most investigative work.

24. Third, on September 21, 2023, the Committee again asked for production of documents previously requested, though the Committee removed several requests, thereby reducing the scope of what was to be produced. The Committee believes that these requests were necessary for its Perfection Challenge (as defined in the Cash Collateral Order), issues that appeared (and now appear) likely to be material to plan confirmation (*e.g.* the status of the Customer Deposit Funds, which also bears on good faith), and fulfillment of the Committee's duties under section 1103 of the Bankruptcy Code. About two hours before the Sept. 26 Hearing, the Debtor informed the Committee that it had simply been too busy to provide the majority of information requested due to pressing matters in this case. Following the Sept. 26 Hearing and further written communications, the Debtor began production of many documents. The Sharefile site used to transmit such documents indicates the date on which they were uploaded. A screen shot with such dates is attached as **Exhibit C**. The overwhelming majority of the documents that the Debtor was too busy to produce appear to have been uploaded weeks ago, thereby depriving the Committee of valuable time to fulfill its duties under section 1103 of the Bankruptcy Code and related to the Perfection Challenge.

25. The Committee is not seeking to turn this Motion into a vehicle for a discovery dispute. Rather the Committee brings this information to the Court's attention because it has contributed to the Committee's loss of confidence in the Debtor's management and its independence from the Owner/Lender Entities.

Customer Deposit Funds

26. The Debtor's statements to the Court at the Sept. 26 Hearing bring an end to the need for any further diligence by the Committee on the status of the Customer Deposit Funds.

The Debtor has now unequivocally stated that its position that the Customer Deposit Funds are not property of the estate is based on undisclosed legal theories—not documents evidencing the intent of a settlor. The Debtor's undisclosed legal theories have inverted the basic presumption that funds in a deposit account titled to the Debtor are the Debtor's property. *In re FBI Wind Down, Inc.*, 581 B.R. 116, 130 (Bankr. D. Del. 2018) ("It is 'well-settled case law' that any bank accounts under the legal title of the debtor, as well as any deposits in such accounts credited to the debtor, are presumptively considered property of the debtor's estate.") This has and will continue to lead to unnecessary legal proceedings and expense.

27. In the meantime, the Committee has analyzed the status of the Customer Deposit Funds and been unable to identify an argument that could plausibly support the Debtor's secret theory. There is no basis to assert that the funds are impressed with a trust under Massachusetts law or are otherwise excluded from the estate under prevailing bankruptcy law. The Committee has set forth these legal arguments in paragraphs 50 through 61 below for the reason that the Debtor's unfounded legal positions and the impact they are having in this case are another ground to find cause to appoint a trustee.

Chapter 11 Plan

28. Thus far, the Committee has had virtually no participation in preparation of any plan-related documents. The Committee was not provided a copy of any disclosure-related documents (the "Disclosure Statement" [Dkt. No. 383] and the "Plan Supplement" [Dkt. No. 384] and together, the "Disclosure Documents") prior to their being filed after 4 p.m. on Thursday September 21, 2023. While the Committee was provided a draft copy of a liquidating plan [Dkt. No. 382] (the "Plan" and together with the Disclosure Documents, the "Plan Documents") about 48 hours before it was filed on Thursday afternoon, there was no opportunity for input, discussion,

or negotiation prior to filing, despite the Committee making itself available.[2] The Committee was provided a revised version of the Plan for the first time at 5:50 p.m. on Thursday September 28, 2023—along with a revised proposal to resolve the Committee's objection to solicitation.[3]

29. There are numerous aspects of the chapter 11 plan process and contents of plan documents that caused the Committee to lose confidence in the Debtor's independence from the Owner/Lender Entities and have led the Committee to the conclusion that the Plan, which is unconfirmable, was crafted for the benefit of the Owner/Lender Entities' economic interests.

30. From a process standpoint, the break-down in negotiations at the Sept. 26 Hearing was over the demand by the Owner/Lender Entities that the case be converted unless the Committee withdraw its objection to solicitation (without any indication of the Committee's position in the Disclosure Documents) and agree not to tell general unsecured creditors to vote against the Plan. In exchange, the Owner/Lender Entities proposed a guaranteed amount of funding for the creditor trust under the Plan. The Committee has determined that this proposal was not consistent with the Committee's duties to general unsecured creditors and subsequently voted to authorize the filing of this Motion.

31. As a substantive matter, the Plan is also further demonstration that the Debtor is doing the Owner/Lender Entities' bidding rather than exercising fiduciary duties for all creditors. The Plan treats the Owner/Lender Entities' claim as secured and would authorize distribution of estate property in satisfaction of the secured claim. Based on review of documents provided by the Debtor and publicly available documents, there are obvious and significant perfection issues

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[2] In addition, an intervening Jewish religious holiday has made counsel for the Committee and the Committee's chairman (and perhaps others) unavailable for one of the two business days between the time the Plan Documents were filed and the hearing to authorize disclosure and solicitation. Thus, the Committee had a single business day to consider the Plan and Disclosure Documents prior to the Sept. 26 Hearing.

[3] Without getting into details, this is yet another example of an offer being made at a hearing with an understanding that the Committee would consider it and respond only to be withdrawn and replaced with a worse proposal before the next hearing.

that should not be ignored, including:

- On December 22, 2021, the Debtor entered into a security agreement naming Paul Gaugin Shipping Limited as secured party. This is the Security Agreement previously attached as **Exhibit B**.

- On December 22, 2021, a financing statement was filed naming Paul Gaugin Shipping Limited as secured party (the "Gaugin Financing Statement"). A copy of the Gaugin Financing Statement is attached as **Exhibit D**.

- On November 7, 2022, the Gaugin Financing Statement was purportedly assigned to the Trust pursuant to a UCC financing statement amendment (the "Gaugin Assignment"). A copy of Gaugin Assignment is attached as **Exhibit E**. Line 24 identifies Mr. Lewis, individually, as an assignor—not an additional secured party or assignee. Assuming that the Gaugin Financing Statement and Gaugin Assignment perfected and assigned a security interest, the Trust might be a secured party of record but Mr. Lewis is not.

- On December 22, 2021, a financing statement was filed naming "PGSL" as secured party (the "PGSL Financing Statement"). A copy of the PGSL Financing Statement is attached as **Exhibit F**. There are no UCC financing statement amendments assigning the PGSL Financing Statement to any other party. Thus, to the extent the PGSL Financing Statement perfects a security interest in favor of any party (it does not), PGSL remains the secured party of record.

- There is no such entity as Paul Gaugin Shipping Limited. In 2009, Paul Gaugin Shipping Limited changed its name to PGSL. A copy of the Certificate of Incorporation on Change of Name, as provided by the Debtor (but not independently verified) is attached as **Exhibit G**.

32. Applicable law holds that a financing statement omitting the actual name of the secured party is ineffective to perfect a security interest. *In re Clarence Graphics, Inc.*, 201 B.R. 46, 46 (Bankr. W.D.N.Y. 1996) (individual creditor failed to perfect lien on assets of debtor where financing statement failed to identify him as secured party and instead identified the corporation owned by the individual creditor and where claim of individual creditor was distinct from that of corporation); *In re Copper King Inn, Inc.*, 918 F.2d 1404, 1408 (9th Cir. 1990) (creditor's financing statement held insufficient to perfect security interest because it did not list all of the secured parties involved). As noted by the Ninth Circuit:

As the bankruptcy court recognized, the omission of a creditor's name could be

> seriously misleading, especially in situations like the one presented here, where officers and shareholders in the debtor company are also its creditors. Potential lenders have a special interest in knowing the identity of such creditors because of the obvious possibility that the insider relationship may lead to collusive behavior that could disadvantage them. Though the financing statement in this case indicated the full amount of debt, it did not disclose the true source of the credit. Noonan's own name was listed, but his company, John T. Noonan Pension & Profit Sharing Plans, and its trustee, Northwest, were nowhere mentioned. The existence of these shadow entities would have been highly significant to anyone contemplating a loan to Copper King. In view of the commercial realities of this case, we find the financing statement was seriously misleading.

Id. at 1408.

33. The Plan also favors the Owner/Lender Entities by virtue of its assignment and transfer of an insurance claim and related proceeds stemming from a cyberattack to the Owner/Lender Entities when the Owner/Lender Entities have taken no steps to perfect a security interest in such property other than filing a financing statement. The Committee informed the Debtor that this is insufficient for perfection. *Wheeling & Lake Erie Railway Co. v. Robert J. Keach, Chapter 11 Trustee (In re Montreal, Maine & Atlantic Railway, Ltd.)*, 799 F.3d 1 (1st Cir. 2015).

34. Further, the Plan proposes to use Customer Deposit Funds to satisfy alleged claims of JPMorgan Chase Bank ("JPM"). JPM alleged in the JPM Objection that Mr. Lewis has personally guaranteed any obligations of the Debtor to JPM—thus the Debtor's about-face on Customer Deposit Funds directly benefits Mr. Lewis.

35. This Motion is not intended as a confirmation objection. However, the Debtor's Plan included these provisions favorable to the Owner/Lender Entities, to the detriment of other creditors, but did not adequately provide for treatment of the interests of customers and trade vendors, simply lumping them in a common class and punting.

Lack of Trust and Confidence

36. At the Sept. 26 Hearing, counsel for the Owner/Lender Entities reported to the

Court that there was a lack of trust with the Committee. This is mutual. The Committee lacks confidence that there can be meaningful or productive negotiations with the Owner/Lender Entities controlling the Debtor and believes that a trustee must be appointed.

RELIEF REQUESTED

37. Pursuant to sections 1104 and 1112 of the Bankruptcy Code, the Committee requests that the Court remove the Debtor from possession and appoint a trustee or, alternatively, convert this case to one under chapter 7 for cause.

BASIS FOR RELIEF

I. The Court Should Appoint a Trustee

A. General Standards for Appointing a Chapter 11 Trustee

38. A debtor-in-possession owes fiduciary duties to its creditors and the bankruptcy estate. *In re Morningstar Marketplace, Ltd*., 544 B.R. 297, 303 (Bankr. M.D. Pa. 2016) (citing *In re Marvel Entm't. Corp.*, 140 F.3d 463, 471 (3d Cir. 1998)); *see also In re Thomas*, 596 B.R. 350, 360 (Bankr. W.D. Tenn. 2019) ("The debtor-in-possession is a fiduciary of the creditors and, as a result, has an obligation to refrain from acting in a manner which could damage the estate, or hinder a successful reorganization.") (internal quotations and citation omitted). As a fiduciary, the debtor-in-possession's obligations "include a duty of care to protect the [estate's] assets, a duty of loyalty and a duty of impartiality." *In re Eurospark Indus., Inc.*, 424 B.R. 621, 627 (Bankr. E.D.N.Y. 2010).

39. The rights of a debtor-in-possession, however, are not absolute and must be forfeited if these fiduciary duties are neglected. *See id.* (collecting cases). Although courts will presume "that the debtor-in-possession should be permitted to remain in control of the corporation absent a showing of need for the appointment of a trustee," *see In re Thomas*, 596 B.R. at 359 (quoting *In re Nartron Corp.*, 330 B.R. 573, 591 (Bankr. W.D. Mich. 2005)), "[t]his

presumption is based on the fact[] that the debtor in possession has a strong sense of familiarity with the business" and is able to perform its fiduciary duties. *See id*. at 359–60 (internal quotations and citation omitted).

40. Section 1104 of the Bankruptcy Code empowers a party in interest, like the Committee, to seek the appointment of a chapter 11 trustee for "cause" *or* because such appointment would serve the "interests of the estate," including its creditors. *See* 11 U.S.C. § 1104(a). The statute provides as follows:

> [a]t any time after the commencement of the case but before confirmation of a plan, on request of a party in interest … and after notice and a hearing, the court shall order the appointment of a trustee –
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> (1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or
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> (2) if such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

Id.

41. "[T]he question of whether a trustee should be appointed in a Chapter 11 case must be considered by the court on a case-by-case basis considering a totality of the particular facts and circumstances …." *In re Thomas*, 596 B.R. at 360. Courts are afforded discretion to determine whether grounds exist for the appointment of a chapter 11 trustee; however, if the court determines that such grounds exist, the court "shall order the appointment of a trustee." *See* 11 U.S.C. § 1104(a); *see also In re Thomas*, 596 B.R. at 360, 363. Such a determination should be made based on a preponderance of evidence. *Tradex v. Morse*, 339 B.R. 823, 826 (D. Mass.

2006).

B. Appointing a Trustee for "Cause" Pursuant to 11 U.S.C. § 1104(a)(1)

42. Section 1104(a)(1) provides a list of examples that constitute "cause" for the appointment of a trustee, including "dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case …." *See* 11 U.S.C. § 1104(a)(1). However, according to the First Circuit:

> The inquiry into whether cause exists for the appointment of a chapter 11 trustee is not limited to the enumerated list but extends to "similar cause." *See* 11 U.S.C. § 1104(a)(1). In determining whether a particular set of circumstances establishes cause under this prong of § 1104(a), courts have considered a variety of factors, including: (1) Materiality of the misconduct; (2) Evenhandedness or lack of such in dealings with insiders or affiliated entities vis-a-vis other creditors or customers; (3) The existence of pre-petition voidable preferences or fraudulent transfers; (4) Unwillingness or inability of management to pursue estate causes of action; (5) Conflicts of interest on the part of management interfering with its ability to fulfill fiduciary duties owed to the debtor; [and] (6) Self-dealings by management or waste or squandering of corporate assets . . . While any one factor may not warrant appointment of a trustee, the court must consider the cumulative or collective impact of the alleged problems or issues in making its decision . . . That is, the court must determine whether the totality of the circumstances warrant appointment of a trustee . . .

United Surety & Indemnity Co. v. Lopez-Munoz (In re Lopez-Munoz), 553 B.R. 179, 190 (B.A.P. 1st Cir. 2016) (denying request for the appointment of a chapter 11 trustee under 11 U.S.C. § 1104(a)(1)), *affirmed*, *United Surety & Indemnity Co. v. Lopez-Munoz (In re Lopez-Munoz)*, 866 F.3d 487 (1st Cir. 2017) (citations and internal punctuation omitted). *See also In re Thomas*, 596 B.R. at 360–61 (quoting *In re LHC, LLC*, 497 B.R. 281, 292 (Bankr. N.D. Ill. 2013)); *see also In re Nartron Corp.*, 330 B.R. at 592 (identifying factors).

43. Often, the thread underlying each of the "cause" factors is the presence of "irreconcilable conflicts and acrimony between the debtor and creditors" such that "the appointment of a trustee to act as a neutral and efficient fiduciary [is] appropriate …." *In re Thomas*, 596 B.R. at 361 (citing *Marvel Entm't*, 140 F.3d at 472-74). Specifically, when "there

is no reasonable likelihood of any cooperation among the [debtor and the estate's constituents] in the foreseeable future, and the parties have been working at cross-purposes," the risk of a "large messy bankruptcy that promises to get worse [warrants] a disinterested administrator at the helm." *See id*. at 361, 362 (internal quotations and citations omitted). Otherwise, the function and purpose of a chapter 11 case will be undermined. *See id*. at 362 ("These rules shall be construed, *administered, and employed by the court and the parties* to secure the just, speedy, and inexpensive determination of every case and proceeding.") (quoting FED. R. BANKR. P. 1001) (emphasis in original).

C. Appointing a Trustee in the Interests of the Estate Pursuant to 11 U.S.C. § 1104(a)(2)

44. Section 1104(a)(2) provides an additional basis for the appointment of a chapter 11 trustee that is less stringent and more "flexible," and affords the Court more discretion. *See In re Thomas*, 596 B.R. at 362; *In re Wings Digital Corp.,* No. 05-12117, 2005 WL 3789334, at *5 (Bankr. S.D.N.Y. May 16, 2005). As an alternative ground for appointing a chapter 11 trustee, the court is not required to find "cause." *See Sharon Steel,* 871 F.2d at 1226; *see also In re Ionosphere Clubs, Inc.,* 113 B.R. 164, 168 (Bankr. S.D.N.Y. 1990). The flexible standard embodied by section 1104(a)(2) is "'intended to accommodate two goals: (1) facilitation of the debtor's reorganization; and (2) protection of the public interest and of creditors.'" *In re Thomas*, 596 B.R. at 362–63 (quoting 7 COLLIER ON BANKRUPTCY ¶ 1104.02[3][a]).

45. Section 1104(a)(2) affords courts "discretion to appoint a trustee when doing so would serve the parties' and the estates' interests." *In re Ashley River Consulting, LLC,* No. 14-13406, 2015 WL 1540941, at *11 (Bankr. S.D.N.Y. Mar. 31, 2015) (quoting *In re Marvel,* 140 F.3d at 474). This is a fact-driven analysis under the Court's broad equity powers. *See, e.g., In re Soundview Elite, Ltd.,* 503 B.R. 571, 582-83 (Bankr. S.D.N.Y. 2014). When evaluating

appointment of a trustee under the "best interest" prong, the Court should "eschew rigid absolutes and look to the practical realities and necessities," *In re Hotel Associates, Inc.,* 3 Bankr. 343, 345 (Bankr. E.D. Pa. 1980), by considering the following four factors:

(a) the trustworthiness of the debtor;
(b) the debtor's past and present performance and prospect for rehabilitation;
(c) the lack of confidence among creditors in the debtor's management; and
(d) whether the benefits of a chapter 11 trustee outweigh the costs.

In re Thomas, 596 B.R. at 363; *In re Soundview Elite,* 503 B.R. at 583 (same); *In re Colorado-UTE Electric Ass'n*, 120 B.R. 164, 176 (Bankr. D. Colo. 1990) (same).

46. At bottom, section 1104(a)(2) embraces a remedy to ensure that the bankruptcy system functions properly and the rights of the estate's constituents are adequately balanced against the rights of the debtor; "that is, whether the benefits to all interests of the estate that would come from the appointment of a chapter 11 trustee outweigh the detriment of the estate." *In re Thomas*, 596 B.R. at 363.

II. The Court Should Appoint a Trustee for "Cause"

47. Many of the circumstances courts consider in a "cause" analysis are present in this case. The Committee addresses them below.

The Debtor is Treating Insiders Better Than Other Creditors and Failing to Properly Exercise its Fiduciary Duties for All Creditors

48. Upon information and belief, the Debtor's management is beholden to the Owner/Lender Entities and is unable to act independently at this point in the case for the reasons described above, which are summarized as follows:

- The Debtor has acquiesced in the Owner/Lender Entities' "crises of the moment" approach to negotiations.
- The Debtor has stipulated to the validity of obviously defective secured claims **after** the sale was completed and **after** the Owner/Lender Entities waived any prepetition security interest in the Customer Deposit Funds, pursuant to the Second Interim Order.

- The Debtor has proposed a Plan that would distribute assets to the Owner/Lender Entities when there are serious perfection issues with the Owner/Lender Entities' alleged secured claim.

- The Debtor has proposed a Plan that would distribute the cyberattack insurance claim and its proceeds to the Owner/Lender Entities even though such asset is not subject to a valid prepetition security interest.

- The Debtor's Plan utilizes Customer Deposit Funds in a manner that personally benefits Mr. Lewis.

- The Debtor withheld vital documents from the Committee during cash collateral negotiations—namely the loan documents purporting to make the Debtor liable to the Owner/Lender Entities on account of a secured claim for unsecured claims of affiliates within one year of the Petition Date.

The Existence of Prepetition Voidable Preferences

49. Upon information and belief, within one year of the Petition Date, the Notes were amended and restated to make the Debtor obligated to the Owner/Lender Entities for advances of affiliates—and, to the extent that the Notes and Security Agreement created valid, perfected, first priority security interests, this provided security for otherwise unsecured obligations of the Debtor. This constitutes a prepetition voidable preference and may also be a fraudulent transfer to the extent that there was a lack of reasonably equivalent value provided by the Owner/Lender Entities to secure advances made to affiliates.

Unfounded Positions Regarding Customer Deposit Funds

50. It is now clear that there are no documents identified in support of the Debtor's assertions that the Customer Deposit Funds are not property of the estate. Consequently, the Debtor's assertion of as-yet-undisclosed legal theories has led to unnecessary waste of time and expense in the case. It removed from the Debtor's reach an important potential source of liquidity and permitted the Debtor and Owner/Lender Entities to proceed with representations to this Court that the Debtor could only get through chapter 11 on a timetable that simply does not make sense.

A compressed schedule favors the Owner/Lender Entities in their effort to stream-roll past the Committee, to the detriment of other creditors.

51. By way of elaboration, section 541(b) provides that "[p]roperty of the estate does not include… any power that the debtor may exercise solely for the benefit of an entity other than the debtor." 11 U.S.C. § 541(b)(1). In construing section 541, courts almost universally hold that trust property is outside of the bankruptcy estate. *See Begier v. I.R.S.*, 496 U.S. 53, 59 (1990) ("Because the debtor does not own an equitable interest in property he holds in trust for another, that interest is not 'property of the estate.'"); *In re Lan Tamers, Inc*., 281 B.R. 782, 792 (Bankr. D. Mass. 2002) (same); *In re Raymond Renaissance Theater, LLC*, 583 B.R. 735, 744 (Bankr. C.D. Cal. 2018) ("[T]o determine whether a debtor holds property in trust for another, the court must first look to applicable state law to see whether or not an enforceable trust exists.").

52. It is less clear under what circumstances that non-trust property may be excluded from a bankruptcy estate pursuant to section 541(b)(1). Broadly speaking, "[t]he 'power' referred to in section 541(b)(1) of the Code means an actual power." 5 Collier on Bankruptcy P 541.17 (16th 2023). More specifically, "if the power in question may be exercised for the benefit of another entity, but is capable of conferring benefit on the debtor also, it becomes property of the estate." *Id.*

53. Under Massachusetts law, trusts have been classified into two categories. First, there are voluntary trusts, which are described as express trusts which spring from the agreement of the parties. Patricia M. Annino, *Probate Law and Practice*, Part III Trusts, Chapter 37, Nature and Kinds of Trusts, June 2023, 22 Mass. Prac., Probate Law and Practice § 37:1 (3d ed.). "A voluntary trust is one created by a competent settlor with a designated subject matter and with the trustee and beneficiary being named and the duties and limitations of the trust being set forth and declared." *Id*. "Second, there are involuntary trusts, which are constructive or resulting, such

as implied trusts which are inferred by the rules and principles of equity." *Id*. Involuntary trusts are created by principles of equity, notwithstanding that the parties did not intend to create a trust relationship. *Id*.

54. Voluntary or express trusts are typically created by written instrument but can also arise by way of an oral statement proven by parol evidence. *Cooney v. Montana*, 347 Mass. 29, 34, 196 N.E.2d 202, 206 (1964) (express trust found to have been established as to proceeds of life insurance policy based on conversation). "Whether a trust is created depends primarily upon the manifestation by the [settlor] of an intention to create a trust." *Ventura v. Ventura*, 407 Mass. 724, 726, 555 N.E.2d 872, 874 (Mass. 1990). "In the case of an express trust… this intention to separate legal and equitable control over particular property should be 'ascertained from the language of the whole [trust] instrument considered in the light of the attendant circumstances.'" *Id*. No particular form of words is necessary to create an express trust, however, the language used must unequivocally show an intention that the legal estate be vested in one person to be held in some manner on behalf of another. *Id*.; *Trs. of First Methodist Church of Holyoke v. Attorney Gen.*, 359 Mass. 658, 660, 270 N.E.2d 905, 906 (Mass. 1971).

55. However, the Debtor's statements in Court at the Sept. 26 Hearing make clear that there was no voluntary or express trust, written or otherwise. The Debtor segregated the Customer Deposit Funds for its own reasons at its own election—contrary to its historical practice (per testimony of the Debtor's representative at the 341 meeting) of depositing customer funds into the Debtor's operating account and using them for current operating expenses. Presumably the Customer Deposit Funds were segregated to mitigate against fraud or other claims rather than altruism.

56. Under Massachusetts law, there are two kinds of involuntary trusts, constructive trusts and resulting trusts. It is unlikely that the Customer Deposit Funds are subject to either

such trust.

57. Constructive trusts arise by operation of law when the circumstances of a transaction are such that the person who takes the legal title to property cannot also enjoy the beneficial interest without violating some established principle of equity. While the forms and varieties of constructive trusts are practically unlimited and each case must be considered on its own facts, a constructive trust will not be imposed "[a]bsent fraud, breach of a fiduciary duty or other misconduct[.]" *Collins v. Guggenheim*, 417 Mass. 615, 618, 631 N.E.2d 1016, 1017 (Mass. 1994). Notwithstanding the inclusion of the broad term "misconduct" in *Collins*, other cases limit the imposition of a constructive trust solely to cases involving a breach of fiduciary duty or the perpetration of actual fraud. *See Lewis v. Mills*, 32 Mass. App. Ct. 660, 666, 593 N.E.2d 1312, 1316 (Mass. App. Ct. 1992) (no trust imposed; the Appeals Court found that "there has been neither a showing that the legal title to the property was obtained by fraud [at the time of the transfer] or in violation of a fiduciary relation"); *Meskell v. Meskell*, 355 Mass. 148, 150, 243 N.E.2d 804, 806 (Mass. 1969). Moreover, courts have held that "[t]he fraud required to create a constructive trust must occur at the time the property was transferred; a subsequent refusal to carry out an oral promise, standing by itself, is not fraud." *Meskell*, 355 Mass. at 151, 243 N.E.2d at 806; *see also Hazleton v. Lewis*, 267 Mass. 533, 538, 166 N.E. 876, 877 (Mass. 1929).

58. Unless the Debtor is prepared to take the position that it was in a fiduciary relationship with customers or committed a fraud, it seems implausible that the Debtor bases its legal argument on imposition of a constructive trust.

59. This leaves a resulting trust. A resulting trust normally arises when a transfer of property is made to one person and the purchase price is paid by another, in which case a trust results in favor of the person who furnished the consideration. *Fortin v. Roman Cath. Bishop of Worcester*, 416 Mass. 781, 788, 625 N.E.2d 1352, 1357 (Mass. 1994); *Nessralla v. Peck*, 403

Mass. 757, 763, 532 N.E.2d 685, 689 (Mass. 1989); *Krasner v. Krasner*, 362 Mass. 186, 189, 285 N.E.2d 398, 400 (Mass. 1972). A person who seeks to establish the existence of a resulting trust does so by showing circumstances which demonstrate that the person making or causing a transfer of property did not intend to give the transferee the beneficial interest in the property. *Krasner*, 362 Mass. at 189, 285 N.E.2d at 400. Again, given the Debtor's historical practice of using customer deposits as working capital and the intention of customers to transfer funds to the Debtor (rather than a third party), it is difficult to see how the Debtor could argue today that the Customer Deposit Funds were subject to a resulting trust without conceding that it improperly used them in the past.

60. Finally, while there is little law on how funds not subject to a trust are excluded from a bankruptcy estate, generally speaking, funds received by a debtor are part of the estate unless an irrevocable agreement compels the debtor to use such funds exclusively for another party's benefit. *See Georgia Pac. Corp. v. Sigma Serv. Corp.*, 712 F.2d 962, 971-972 (5th Cir. 1983); *In re Auto-Train Corp., Inc.*, 810 F.2d 270, 274 (D.C. Cir. 1987) ("courts have uniformly required a contract irrevocably obligating the debtor both to segregate the 'trust funds' from the debtor's own funds and to deliver the 'trust funds' to the creditor… The agreement between Midland-Ross and Railway fails to impose these duties and establishes nothing more than a generic debtor-creditor relationship.") Relatedly, when a debtor receives funds pursuant to an agreement and the debtor fails to provide its required consideration, such funds nevertheless remain property of the estate. *Id*. at 273 ("The argument ignores Midland-Ross's legal claim against Railway for the price. Railway's legal indebtedness obviated any unjust enrichment problem and thus any need for equity to create a constructive trust."). The Committee is not aware of assertions by the Debtor that it received the Customer Deposit Funds under an irrevocable agreement to use such funds exclusively for the benefit of affected customers. If the

Debtor does take this position, then that would raise serious questions about whether the Debtor has committed a mass fraud through the dissipation of customer deposits over a period of years (unless documentation changed effective May 12, 2023).

61. In summary, the Debtor's assertions that the Customer Deposit Funds are outside the estate appear to be unfounded and nothing more than a matter of convenience. These assertions have complicated this case and led to unnecessary proceedings.

Delayed Production/Withholding of Documents

62. The Debtor has initially withheld and then delayed production of documents from the Committee. The Debtor blamed this on being too busy but **Exhibit C** shows the documents were uploaded weeks ago. This has hampered the Committee in completing its work within the compressed timeframes that the Debtor and Owner/Lender Entities demanded.

Lack of Confidence in Management

63. The Committee has lost confidence in the Debtor's management and its ability to act independently from the Owner/Lender Entities.

The Current Plan Process is Wasteful

64. Given the significant issues with the Plan, the Debtor's haste to solicit the Plan and rush to confirmation appears destined to waste significant amounts of estate resources. The Owner/Lender Entities are the only party who benefits from this rushed process.

III. The Court Should Appoint a Trustee in the Interests of the Estate and its Creditors

65. Alternatively, even if the Court determines that "cause" does not exist for the mandatory appointment of a chapter 11 trustee, the appointment is in the best interests of the estate and its creditors.

The Lack of Confidence Among Creditors

66. For all the reasons set forth above, the Committee lacks confidence in the Debtor

and its ability to act independently of the Owner/Lender Entities. This Motion is a vote of no confidence in the Debtor and its management.

The Debtor Has No Prospect for Rehabilitation

67. This is a liquidating case—the sale having been completed. There will be no rehabilitation. Given that the debtor is liquidating, no particular deference should be paid to its management's judgments regarding the liquidation, and the Committee's views should carry equal, if not superior weight. *In re Commercial Mortgage and Finance Co*., 414 B.R. 389, 394 (Bankr. N.D. Ill. 2009) (citing *In re S.N.A. Nut Co*., 186 B.R. 98, 105 (Bankr. N.D. Ill. 1995). All that is left is determinations of rights and distributions of assets. This must occur free from interference by the Owner/Lender Entities.

At this Time, the Benefits of a Chapter 11 Trustee Outweigh the Costs

68. While the Committee has made great efforts to advance this case for the benefit of creditors in conjunction with the Debtor, it is clear that the appointment of a trustee best serves the interests of the estate. The Committee acknowledges the appointment of a trustee will result in additional costs. However, there are significant attendant benefits worthy of consideration.

69. First, the Committee understands that the UST has greater flexibility in the selection of a disinterested individual to serve as a trustee in a chapter 11 case and is not required to appoint a panel trustee. This means that the UST could, with the Committee's input, select a professional who has experience with cases such as this one. Such an individual is likely to remain as chapter 7 trustee, even if the case promptly converts thereafter.

70. Second, chapter 11 provides a greater range of options for resolution of key disputes in this case. By virtue of the Debtor's unfounded and baseless assertion that the Customer Trust Funds are impressed with a trust or otherwise outside of the Debtor's estate, some form of judicial determination of rights is necessary (unless the Court rejects the Debtor's

undisclosed legal theories). There also must be a determination on the manner in which customer travel credits will interact with the claims allowance process. These two issues alone involve thousands of individuals. Leaving these to an ordinary course chapter 7 process could be unwieldly.

71. Third, the Committee believes that there are significant potential benefits to utilizing a chapter 11 plan to create a post-confirmation structure consolidating a corporate wind-down with creditor trustee functions in a manner that may be more efficient and flexible than the limitations of chapter 7.

72. While it may be that the Debtor and Owner/Lender Entities identify similar issues to resolve or benefits from chapter 11 as opposed to chapter 7, the Debtor does not appear capable of acting independently from the Owner/Lender Entities—and the Owner/Lender Entities are dominating the Debtor.

IV. If the Court Does not Appoint a Trustee, Then the Case Should be Converted to a Case Under Chapter 7

73. In the event that the Court is not inclined to appoint a chapter 11 trustee, then the Committee requests that the Court convert this case to a case under chapter 7 for "cause" within the meaning of section 1112 of the Bankruptcy Code. The Committee submits that the facts and arguments set forth above demonstrate cause.

REQUEST FOR EMERGENCY DETERMINATION

74. As noted above, the Committee requests that this Motion be determined on an emergency basis. The Committee submits that immediate action is necessary to remove the Debtor from possession and end the Owner/Lender Entities' control. At present, there is no business deal resolving the Committee's pending objection to solicitation of the pending chapter 11 Plan. A challenge to the Owner/Lender Entities' alleged secured claim is likely. And

confirmation proceedings are unlikely to proceed on the schedule proposed. Continued efforts to pursue the Debtor's misguided path confirming the Owner/Lender Entities' chapter 11 plan will only lead to waste of estate assets.

CONCLUSION

Based on the foregoing, the Committee requests that the Court (A) appoint a trustee under section 1104 of the Bankruptcy Code or, alternatively, convert this case to a case under chapter 7, and (B) grant such further and additional relief as the Court deems proper.

Dated: September 29, 2023

/s/ Andrew C. Helman

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-and-

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Counsel for the Official Committee of Unsecured Creditors

CERTIFICATE OF SERVICE

I, Andrew C. Helman, an individual eighteen years of age or older, hereby certify that on the date set forth below, I filed the foregoing document (with exhibits, if any) on the Court's CM/ECF electronic filing system, thereby serving all parties receiving notice and service in this case through the Court's CM/ECF electronic filing system. Such parties are identified in the following service list:

The following is the list of **parties and attorneys** who are currently on the list to receive email notice/service for this case.

- Eric K. Bradford Eric.K.Bradford@USDOJ.gov
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Date: September 29, 2023

/s/ Andrew C. Helman

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CERTIFICATE OF CONFERENCE

Pursuant to this Court's Local Rule 9013-1(g)(C), I certify that I sent an e-mail to Michael Goldberg and Davis Whitesell, as counsel for Vantage Travel Service, Inc., and Robert J. Keach, as counsel for Mr. Henry R. Lewis and the Henry R. Lewis Trust u/d/t dated September 23, 2004, regarding the foregoing motion and that the Committee intends to seek an emergency determination. I do not know the position of such parties.

Date: September 29, 2023

/s/ Andrew C. Helman

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EXHIBIT A

PROMISSORY NOTE
(NON-REVOLVING LINE OF CREDIT)

$2,000,000.00

December 22, 2021
Boston, Massachusetts

FOR VALUE RECEIVED, the undersigned, VANTAGE TRAVEL SERVICE, INC., a Massachusetts business corporation ("**Borrower**"), hereby promises to pay to the order of PAUL GAUGUIN SHIPPING LIMITED, a Cayman Islands limited company (together with its successors and permitted assigns, collectively, "**Lender**"), ON DEMAND, the principal sum of up to Two Million and 00/100 Dollars ($2,000,000.00) (the "**Maximum Loan Amount**") or so much thereof as may be advanced by Lender to Borrower hereunder, together with interest on each Loan Advance (as defined below) and all other amounts due and payable hereunder, upon the terms and conditions set forth in this Promissory Note (this "**Note**"). Borrower shall comply with the following provisions to which this Note is subject and by which it is governed for so long as any portion of this Note remains outstanding and unpaid.

1. Interest. During the period commencing on the date hereof and continuing up to, and including, the date on which the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full, simple interest shall accrue on each unpaid Loan Advance, computed from the date thereof, at a fixed rate equal to five percent (5.00%) per annum.

This Note is subject to the condition that, at no time, shall Borrower be obligated or required to pay interest at a rate that could subject Lender to civil or criminal liability, forfeiture, or loss of principal, interest, or other sums as a result of being in excess of the maximum rate of interest that Borrower is permitted by law to contract or agree to pay or that Lender is permitted to receive. If, by the terms and conditions set forth in this Note, Borrower is, at any time, required or obligated to pay interest at a rate in excess of such maximum rate, then the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate for so long as such maximum rate shall be in effect and shall thereafter be payable at the rate provided hereunder.

2. Loan Advances.

(a) During the Draw Period (as defined below), subject to the terms and conditions set forth in this Note, upon the prior request of Borrower to Lender, Lender may, in its sole and absolute discretion, make one or more advances (each, a "**Loan Advance**" and, collectively, the "**Loan Advances**") of the Maximum Loan Amount to Borrower; provided, however, that each Loan Advance shall not be less than One Hundred Thousand and 00/100 Dollars ($100,000.00) and that the Loan Advances, collectively, shall not, at any time, exceed the Maximum Loan Amount. Borrower may borrow Loan Advances and repay the same without premium or penalty therefor, subject to the applicable rate of interest and the Maximum Loan Amount, but Borrower may not re-borrow such sums as new Loan Advances. If, at any time, the Loan Advances, collectively, exceed the Maximum Loan Amount, then Borrower shall pay to Lender an amount equal to such excess on demand. For the purposes of this Note, the term "**Draw Period**" means the period commencing on the date hereof and continuing up to, but not including, the Maturity Date.

(b) Any Loan Advance shall be conclusively presumed to have been made to or for the benefit and at the request of Borrower when (i) deposited or credited to an account of Borrower with the Lender, or (ii) made in accordance with the oral or written instructions of Borrower or of anyone

signing below for or on behalf of Borrower. Borrower hereby irrevocably authorizes Lender to make or cause to be made on the books of Lender, at or following the time of making of each Loan Advance and of receiving any payment of principal, an appropriate notation reflecting such transaction and the then-aggregate unpaid principal balance of the aggregate indebtedness outstanding hereunder. The amount so noted, and other regular entries by the Lender on its books with respect to interest and other charges, shall, absent manifest error, constitute presumptive evidence as to the amount owed by Borrower with respect to principal of the Loan Advances and with respect to interest and other charges.

(c) Payment; Maturity Date; Late Charge; Default Interest. Commencing on April 1, 2022, and continuing on the first (1st) day of each and every consecutive calendar quarter thereafter, Borrower shall pay to Lender quarterly payments of interest only. All principal, accrued and unpaid interest, and all other amounts due hereunder shall be due and payable in full on demand, with written notice provided by Lender to Borrower one hundred twenty (120) days in advance (the "**Maturity Date**").

Borrower shall pay to Lender a late charge in an amount equal to five percent (5.0%) of any amount due hereunder that is not paid within ten (10) days after the date when due. In addition, upon the occurrence of an Event of Default (as defined below), interest on all unpaid balances hereunder shall accrue from the date of such Event of Default at a fixed rate equal to five percent (5.0%) in excess of the rate of interest otherwise applicable hereunder (the "**Default Rate**") until the earlier of the time that (i) Lender elects in its sole discretion to accept cure of such Event of Default in writing, or (ii) such balances are paid in full. All computations of interest due hereunder shall be based on the actual number of days elapsed over a calendar year consisting of three hundred (360) days. All interest at the Default Rate and late charges as described in this paragraph shall be due upon demand.

All payments of principal, interest, and all other amounts due and payable hereunder shall be made in lawful money of the United States of America by certified check or wire transfer of immediately available funds to Lender's account at a bank specified by Lender to Borrower in writing from time to time. The foregoing payments may be applied as follows, as determined by Lender in its sole and absolute discretion: (1) first, to all late charges and other costs and expenses payable hereunder or in connection herewith, other than principal or interest, (2) second, to the interest on the unpaid principal balance of the debt evidenced hereby, and (3) the remainder, to the unpaid principal balance of the debt evidenced hereby, until the same is paid in full.

If any payment of principal or interest hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance, the obligation of Borrower and all other parties liable herefor shall, jointly and severally, to the extent thereof, survive as an obligation due hereunder and shall not be discharged by said payment, notwithstanding the return by Lender to Borrower or any other party of the original of this Note.

3. Default; Event of Default. Each and all of the following events shall constitute a "**Default**" hereunder and, after the giving of any required notice or the expiration of any applicable grace or cure period, shall each and all constitute an "**Event of Default**" hereunder: (i) Borrower fails to pay any amount when due under the Note and such failure continues for fifteen (15) days after the date when due; or (ii) Borrower shall fails to pay when due any other sum, fee, charge, cost, or expense provided hereunder; or (iii) Borrower fails to perform or observe any other term, covenant, or agreement contained in this Note on its part to be performed or observed; or (iv) any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any other party liable herefor is proven to have been false or erroneous when made or furnished; or (v) the occurrence of a default in the terms, covenants or conditions contained in that certain Security Agreement, dated on near or even date herewith, by Borrower in favor of Lender

(together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Security Agreement**"), and such default continues after the period, if any, set forth therein for the purpose of curing such default; or (vi) the death, incapacity, dissolution, liquidation, or termination of existence of Borrower or any other party liable herefor; or (vii) the loss, theft, substantial damage, to or of the Collateral (as defined in the Security Agreement), or the sale or encumbrance, whether junior or senior to Lender's lien or security interest, to or of the Collateral (or any portion thereof), or the making of any levy, seizure or attachment of or on the Collateral, or the failure to pay when due any tax thereon or, with respect to any insurance policy, any premium therefor; or (viii) the occurrence of any adverse change in the condition or affairs of Borrower or any other party liable herefor, causing Lender reasonably to deem itself insecure; or (ix) the entry of any judgment(s) or order(s) against Borrower that is not satisfied or appealed from (with execution or similar process stayed), within thirty (30) days after the date of entry thereof; or (x) Borrower or any other party liable herefor (A) applies for, or consents to, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (B) admits in writing its inability, or becomes generally unable, to pay its debts as they become due, (C) makes a general assignment for the benefit of its creditors, (D) commences a voluntary case under the federal bankruptcy laws (as now or hereafter in effect), (E) files a petition seeking to take advantage of any other law providing for the relief of debtors, (F) acquiesces in, or fails to controvert in a timely manner, any petition filed against it in any involuntary case under such bankruptcy laws, or (G) takes any corporate, partnership, or other entity action for the purpose of effecting any of the foregoing; or (xi) a case or other proceeding is commenced without the application or consent of Borrower or any other party liable herefor in any court of competent jurisdiction seeking (A) the liquidation, the readjustment of debts, or reorganization of such party, (B) the appointment of a trustee, receiver, custodian, liquidator or the like of such party or of all or any substantial part of the assets of such party, (C) any similar action shall be taken with respect to such party under the federal bankruptcy laws (as now or hereafter in effect) or any other laws relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debt, and such case or proceeding remains undismissed or unstayed and in effect for a period of sixty (60) days thereafter, or (D) an order for relief against such party is entered in an involuntary case under such bankruptcy laws; or (xii) the default of Borrower or any other party liable herefor under the terms of any instruments, documents or agreements evidencing or relating to any indebtedness of Borrower or any other party liable herefor from any lender other than Lender; or (xiii) any filing against or relating to Borrower or any other party liable herefor of a federal tax lien in favor of the United States of America or any political subdivision of the United States of America, or a state tax lien in favor of any state of the United States of America or any political subdivision of any such state; or (xiv) any change in ownership of the voting interests in Borrower.

7. Remedies. Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, Lender may, in its sole and absolute discretion, upon written notice to Borrower, declare due and payable at once the entire principal balance hereof together with accrued interest and all other amounts due and payable hereunder, and Lender shall have such additional rights and remedies as are set forth in this Note, the Security Agreement, and applicable law. **Borrower hereby acknowledges and agrees that the inclusion of any event as an Event of Default hereunder does not in any way detract from the demand nature of this Note, and that Lender may make demand hereunder at any time, pursuant to Section 3 herein, regardless of whether an Event of Default has occurred.**

4. No Management, Officer, or Ownership Rights. This Note shall not entitle Lender to any rights as a manager, officer, or member of Borrower in any respect.

5. Miscellaneous.

(a) *Notices*. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally-recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or electronic mail (with confirmation of transmission) if sent during normal business hours of the addressee, and on the next business day if sent after normal business hours of the addressee; or (iv) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Any communication hereunder must be sent to the applicable party's address set forth below or such other address that such party may designate from time to time in accordance with this Section:

If to Borrower:
Vantage Travel Service, Inc.
90 Canal Street
Boston, MA 02114
Attn: Greg Del Greco, Chief Operating Officer
E: gdelgreco@vantagetravel.com

with a copy to:
Vantage Travel Service, Inc.
90 Canal Street, Suite 100
Boston, MA 02114
Attn: Rossella Mercuri, Esq., General Counsel
T: 617-878-6070
E: rmercuri@vantagetravel.com

If to Lender:
Paul Gauguin Shipping Limited
c/o Mr. Henry R. Lewis
2500 S Ocean Boulevard, Apt. 3
Boca Raton, FL 33432-8423
E: hlewis@commonwealthboston.com

with a copy to:
Diamond McCarthy, LLP
909 Fannin Street, 37th Floor
Houston, TX 77010
Attn: Allan B. Diamond, Esq.
T: 713-333-5104
E: adiamond@diamondmccarthy.com

and

Bernstein Shur
100 Middle Street, West Tower
PO Box 9729
Portland, ME 04104-5029
Attn: Robert J. Keach, Esq.
T: 207-228-7334
E: rkeach@bernsteinshur.com

(b) *Entire Agreement*. This Note constitutes the sole and entire agreement of Lender and Borrower with respect to the subject matter hereof and thereof, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter hereof and thereof.

(c) *Amendment*. No amendment, modification, or supplement to this Note will be effective unless it is in writing, identified as such amendment, modification, or supplement, and signed by Lender and Borrower. Any purported amendment, modification, or supplement to this Note in violation of this Section shall be null and void and of no force and effect whatsoever.

(d) *Waiver*. No waiver by any party of any of the provisions hereof will be effective unless it is in writing, identified as such waiver, and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Note shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Notwithstanding anything in this Note to the contrary, Borrower and all other parties liable herefor, whether principal, guarantor, endorser or otherwise, hereby severally (a) waive demand, presentment, protest and notice of every kind, (b) waive all recourse to suretyship and guarantorship defenses generally, including, but not limited to, any extensions of time for payment or performance that may be granted to Borrower or to any other liable party, any modifications or amendments to this Note or any documents securing payment and performance hereof, any act or omission to act by or on behalf of Lender, any invalidity or unenforceability of any security, guaranty or endorsement given herefor, any release of security, whether any such release is intentional, unintentional or by operation of law, and all other indulgences of any type which may be granted by Lender to Borrower or to any other party liable herefor, (c) waive any right to indemnity, contribution, exoneration or reimbursement of any kind by any other party directly or indirectly liable herefor, whether maker, endorser, guarantor or otherwise, on account of any payment made hereunder, (d) waive any right of subrogation to the rights, remedies, or security of Lender on account of any payment made hereunder, and (e) agree to pay on demand all costs of collection and/or enforcement of the indebtedness and other obligations evidenced hereby, including reasonable attorneys' and paralegals' fees and costs.

(e) *Assignment; Successors and Assigns; Binding Effect*. No assignment, transfer, delegation, or subcontract of any rights or obligations under this Note, in whole or in part, will be effective unless it is in writing, identified as such assignment, transfer, delegation, or subcontract, and signed by the non-assigning, non-transferring, non-delegating, or non-subcontracting party. Any purported assignment, transfer, delegation, or subcontract in violation of this Note, whether voluntary or by operation of law, directly or indirectly, shall be null and void and of no force and effect whatsoever. This Note is for the sole and exclusive benefit of Lender and Borrower and their respective successors and permitted assigns, and nothing in this Note, express or implied, is intended to, or shall, confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under, or by reason of, this Note. This Note shall be binding upon, inure to the benefit of, and be enforceable by Lender and Borrower and their respective successors and permitted assigns.

(f) *Governing Law*. This Note shall be governed by, and construed in accordance with, the internal laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the Commonwealth of Massachusetts.

(g) *Commercial Purpose; Security*. This Note evidences a loan for business and

commercial purposes, and not for personal, family or household purposes, and this Note is secured by the Security Agreement.

(h) WAIVER OF JURY TRIAL. IN RECOGNITION OF THE HIGHER COSTS AND DELAY THAT MAY RESULT FROM A JURY TRIAL, LENDER AND BORROWER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING HEREUNDER, OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LENDER AND BORROWER OR EITHER OF THEM WITH RESPECT HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH OF LENDER AND BORROWER FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND EACH OF LENDER AND BORROWER HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT EITHER LENDER OR BORROWER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LENDER AND BORROWER TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY LENDER AND BORROWER, AND THESE PROVISIONS SHALL NOT BE SUBJECT TO ANY EXCEPTIONS. NEITHER PARTY HAS AGREED WITH OR REPRESENTED TO THE OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. LENDER SHALL BE BOUND BY THIS PARAGRAPH UPON ITS ACCEPTANCE OF THIS NOTE.

(i) *Severability*. If any term or provision of this Note is invalid, illegal, or unenforceable in any jurisdiction, then such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Note to effect the original intent of the parties as closely as possible in order for the transactions contemplated hereby to be consummated as originally contemplated to the greatest extent possible.

(j) *Headings*. The headings used in this Note are included only for convenience and are not to be used for the construction or interpretation of this Note in any respect.

(k) *Remedies*. The rights and remedies set forth under this Note are cumulative and not exclusive of any rights, remedies, powers, and privileges that may otherwise be available to Lender or Borrower.

(l) *Sealed Instrument*. This Note is intended to take effect as a sealed instrument.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the undersigned party has executed and delivered this Promissory Note as a sealed instrument as of the first date written above.

BORROWER:

VANTAGE TRAVEL SERVICE, INC.

By: _____
Name: Gregory Del Greco
Title: Chief Operating Officer

AMENDED AND RESTATED PROMISSORY NOTE
(NON-REVOLVING LINE OF CREDIT)

$4,513,838.86

June 8, 2022
Boston, Massachusetts

FOR VALUE RECEIVED, the undersigned, VANTAGE TRAVEL SERVICE, INC., a Massachusetts business corporation ("**Borrower**"), hereby promises to pay to the order of PAUL GAUGUIN SHIPPING LIMITED, a Cayman Islands limited company (together with its successors and permitted assigns, collectively, "**Lender**"), ON DEMAND, the principal sum of up to **Four Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($4,513,838.86)** (the "**Maximum Loan Amount**") or so much thereof as may be advanced by Lender to Borrower hereunder, together with interest on each Loan Advance (as defined below) and all other amounts due and payable hereunder, upon the terms and conditions set forth in this Amended and Restated Promissory Note (this "**Note**"). Borrower shall comply with the following provisions to which this Note is subject and by which it is governed for so long as any portion of this Note remains outstanding and unpaid.

This Note amends, restates, and replaces in its entirety that certain Promissory Note, dated December 21, 2021, by Borrower in favor of Lender, in the original principal amount of Two Million and 00/100 Dollars ($2,000,000.00) (the "**Original Note**"). This Note is made in reaffirmation, modification, substitution, extension, rearrangement, and replacement of, the Original Note, but this Note is not made in novation, discharge, satisfaction, or extinguishment of all or any portion of the Original Note. On and after the date of this Note, the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due, under the Original Note, shall remain outstanding under this Note and be governed by the terms of this Note. Borrower hereby acknowledges and agrees that this Note is, and shall continue to be, secured by the security interests created by the Security Agreement (as defined below) and any and all other security interests and other liens securing the Original Note, all of which security interests and liens are hereby modified, extended, renewed, carried forward, and confirmed by Borrower in all respects and shall remain in full force and effect until the outstanding principal balance under this Note, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full.

1. Interest. During the period commencing on the date hereof and continuing up to, and including, the date on which the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full, simple interest shall accrue on each unpaid Loan Advance, computed from the date thereof, at a fixed rate equal to five percent (5.00%) per annum.

This Note is subject to the condition that, at no time, shall Borrower be obligated or required to pay interest at a rate that could subject Lender to civil or criminal liability, forfeiture, or loss of principal, interest, or other sums as a result of being in excess of the maximum rate of interest that Borrower is permitted by law to contract or agree to pay or that Lender is permitted to receive. If, by the terms and conditions set forth in this Note, Borrower is, at any time, required or obligated to pay interest at a rate in excess of such maximum rate, then the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate for so long as such maximum rate shall be in effect and shall thereafter be payable at the rate provided hereunder.

2. Loan Advances.

(a) During the Draw Period (as defined below), subject to the terms and conditions set forth in this Note, upon the prior request of Borrower to Lender, Lender may, in its sole and absolute discretion, make one or more advances (each, a "**Loan Advance**" and, collectively, the "**Loan**

Advances") of the Maximum Loan Amount to Borrower; provided, however, that each Loan Advance shall not be less than One Hundred Thousand and 00/100 Dollars ($100,000.00) and that the Loan Advances, collectively, shall not, at any time, exceed the Maximum Loan Amount. Borrower may borrow Loan Advances and repay the same without premium or penalty therefor, subject to the applicable rate of interest and the Maximum Loan Amount, but Borrower may not re-borrow such sums as new Loan Advances. If, at any time, the Loan Advances, collectively, exceed the Maximum Loan Amount, then Borrower shall pay to Lender an amount equal to such excess on demand. For the purposes of this Note, the term "**Draw Period**" means the period commencing on the date hereof and continuing up to, but not including, the Maturity Date.

(b) Any Loan Advance shall be conclusively presumed to have been made to or for the benefit and at the request of Borrower when (i) deposited or credited to an account of Borrower with the Lender, or (ii) made in accordance with the oral or written instructions of Borrower or of anyone signing below for or on behalf of Borrower. Borrower hereby irrevocably authorizes Lender to make or cause to be made on the books of Lender, at or following the time of making of each Loan Advance and of receiving any payment of principal, an appropriate notation reflecting such transaction and the then-aggregate unpaid principal balance of the aggregate indebtedness outstanding hereunder. The amount so noted, and other regular entries by the Lender on its books with respect to interest and other charges, shall, absent manifest error, constitute presumptive evidence as to the amount owed by Borrower with respect to principal of the Loan Advances and with respect to interest and other charges.

(c) Payment; Maturity Date; Late Charge; Default Interest. Commencing on **[July]** 1, 2022, and continuing on the first (1st) day of each and every consecutive calendar quarter thereafter, Borrower shall pay to Lender quarterly payments of interest only. All principal, accrued and unpaid interest, and all other amounts due hereunder shall be due and payable in full on demand, with written notice provided by Lender to Borrower one hundred twenty (120) days in advance (the "**Maturity Date**").

Borrower shall pay to Lender a late charge in an amount equal to five percent (5.0%) of any amount due hereunder that is not paid within ten (10) days after the date when due. In addition, upon the occurrence of an Event of Default (as defined below), interest on all unpaid balances hereunder shall accrue from the date of such Event of Default at a fixed rate equal to five percent (5.0%) in excess of the rate of interest otherwise applicable hereunder (the "**Default Rate**") until the earlier of the time that (i) Lender elects in its sole discretion to accept cure of such Event of Default in writing, or (ii) such balances are paid in full. All computations of interest due hereunder shall be based on the actual number of days elapsed over a calendar year consisting of three hundred (360) days. All interest at the Default Rate and late charges as described in this paragraph shall be due upon demand.

All payments of principal, interest, and all other amounts due and payable hereunder shall be made in lawful money of the United States of America by certified check or wire transfer of immediately available funds to Lender's account at a bank specified by Lender to Borrower in writing from time to time. The foregoing payments may be applied as follows, as determined by Lender in its sole and absolute discretion: (1) first, to all late charges and other costs and expenses payable hereunder or in connection herewith, other than principal or interest, (2) second, to the interest on the unpaid principal balance of the debt evidenced hereby, and (3) the remainder, to the unpaid principal balance of the debt evidenced hereby, until the same is paid in full.

If any payment of principal or interest hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance, the obligation of Borrower and all other parties liable herefor shall, jointly and severally, to the extent thereof, survive as an obligation due hereunder and shall not be discharged by said payment, notwithstanding the return by

Lender to Borrower or any other party of the original of this Note.

3. Default; Event of Default. Each and all of the following events shall constitute a "**Default**" hereunder and, after the giving of any required notice or the expiration of any applicable grace or cure period, shall each and all constitute an "**Event of Default**" hereunder: (a) Borrower fails to pay any amount when due under the Note and such failure continues for fifteen (15) days after the date when due; or (b) Borrower shall fails to pay when due any other sum, fee, charge, cost, or expense provided hereunder; or (c) Borrower fails to perform or observe any other term, covenant, or agreement contained in this Note on its part to be performed or observed; or (d) any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any other party liable herefor is proven to have been false or erroneous when made or furnished; or (e) the occurrence of a default in the terms, covenants or conditions contained in that certain Security Agreement, dated on near or even date herewith, by Borrower in favor of Lender (together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Security Agreement**"), and such default continues after the period, if any, set forth therein for the purpose of curing such default; or (f) the death, incapacity, dissolution, liquidation, or termination of existence of Borrower or any other party liable herefor; or (g) the loss, theft, substantial damage, to or of the Collateral (as defined in the Security Agreement), or the sale or encumbrance, whether junior or senior to Lender's lien or security interest, to or of the Collateral (or any portion thereof), or the making of any levy, seizure or attachment of or on the Collateral, or the failure to pay when due any tax thereon or, with respect to any insurance policy, any premium therefor; or (h) the occurrence of any adverse change in the condition or affairs of Borrower or any other party liable herefor, causing Lender reasonably to deem itself insecure; or (i) the entry of any judgment(s) or order(s) against Borrower that is not satisfied or appealed from (with execution or similar process stayed), within thirty (30) days after the date of entry thereof; or (j) Borrower or any other party liable herefor (1) applies for, or consents to, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (2) admits in writing its inability, or becomes generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) commences a voluntary case under the federal bankruptcy laws (as now or hereafter in effect), (5) files a petition seeking to take advantage of any other law providing for the relief of debtors, (6) acquiesces in, or fails to controvert in a timely manner, any petition filed against it in any involuntary case under such bankruptcy laws, or (7) takes any corporate, partnership, or other entity action for the purpose of effecting any of the foregoing; or (k) a case or other proceeding is commenced without the application or consent of Borrower or any other party liable herefor in any court of competent jurisdiction seeking (1) the liquidation, the readjustment of debts, or reorganization of such party, (2) the appointment of a trustee, receiver, custodian, liquidator or the like of such party or of all or any substantial part of the assets of such party, (3) any similar action shall be taken with respect to such party under the federal bankruptcy laws (as now or hereafter in effect) or any other laws relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debt, and such case or proceeding remains undismissed or unstayed and in effect for a period of sixty (60) days thereafter, or (4) an order for relief against such party is entered in an involuntary case under such bankruptcy laws; or (*l*) the default of Borrower or any other party liable herefor under the terms of any instruments, documents or agreements evidencing or relating to any indebtedness of Borrower or any other party liable herefor from any lender other than Lender; or (m) any filing against or relating to Borrower or any other party liable herefor of a federal tax lien in favor of the United States of America or any political subdivision of the United States of America, or a state tax lien in favor of any state of the United States of America or any political subdivision of any such state; or (n) any change in ownership of the voting interests in Borrower.

4. Remedies. Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, Lender may, in its sole and absolute discretion, upon written notice to Borrower, declare due and payable at once the entire principal balance hereof together with accrued interest and all other amounts due and payable hereunder, and Lender shall have such additional rights and remedies as are set forth in this Note, the Security Agreement, and applicable law. **Borrower**

hereby acknowledges and agrees that the inclusion of any event as an Event of Default hereunder does not in any way detract from the demand nature of this Note, and that Lender may make demand hereunder at any time, pursuant to Section 3 herein, regardless of whether an Event of Default has occurred.

5. No Management, Officer, or Ownership Rights. This Note shall not entitle Lender to any rights as a manager, officer, or member of Borrower in any respect.

6. Miscellaneous.

(a) *Notices*. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally-recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or electronic mail (with confirmation of transmission) if sent during normal business hours of the addressee, and on the next business day if sent after normal business hours of the addressee; or (iv) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Any communication hereunder must be sent to the applicable party's address set forth below or such other address that such party may designate from time to time in accordance with this Section:

If to Borrower:
Vantage Travel Service, Inc.
90 Canal Street
Boston, MA 02114
Attn: Greg Del Greco, Chief Operating Officer
E: gdelgreco@vantagetravel.com

with a copy to:
Vantage Travel Service, Inc.
90 Canal Street, Suite 100
Boston, MA 02114
Attn: Rossella Mercuri, Esq., General Counsel
T: 617-878-6070
E: rmercuri@vantagetravel.com

If to Lender:
Paul Gauguin Shipping Limited
c/o Mr. Henry R. Lewis
2500 S Ocean Boulevard, Apt. 3
Boca Raton, FL 33432-8423
E: hlewis@commonwealthboston.com

with a copy to:
Diamond McCarthy, LLP
909 Fannin Street, 37th Floor
Houston, TX 77010
Attn: Allan B. Diamond, Esq.
T: 713-333-5104
E: adiamond@diamondmccarthy.com

and

Bernstein Shur
100 Middle Street, West Tower
PO Box 9729

Portland, ME 04104-5029
Attn: Robert J. Keach, Esq.
T: 207-228-7334
E: rkeach@bernsteinshur.com

(b) *Entire Agreement*. This Note constitutes the sole and entire agreement of Lender and Borrower with respect to the subject matter hereof and thereof, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter hereof and thereof.

(c) *Amendment*. No amendment, modification, or supplement to this Note will be effective unless it is in writing, identified as such amendment, modification, or supplement, and signed by Lender and Borrower. Any purported amendment, modification, or supplement to this Note in violation of this Section shall be null and void and of no force and effect whatsoever.

(d) *Waiver*. No waiver by any party of any of the provisions hereof will be effective unless it is in writing, identified as such waiver, and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Note shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Notwithstanding anything in this Note to the contrary, Borrower and all other parties liable herefor, whether principal, guarantor, endorser or otherwise, hereby severally (i) waive demand, presentment, protest and notice of every kind, (ii) waive all recourse to suretyship and guarantorship defenses generally, including, but not limited to, any extensions of time for payment or performance that may be granted to Borrower or to any other liable party, any modifications or amendments to this Note or any documents securing payment and performance hereof, any act or omission to act by or on behalf of Lender, any invalidity or unenforceability of any security, guaranty or endorsement given herefor, any release of security, whether any such release is intentional, unintentional or by operation of law, and all other indulgences of any type which may be granted by Lender to Borrower or to any other party liable herefor, (iii) waive any right to indemnity, contribution, exoneration or reimbursement of any kind by any other party directly or indirectly liable herefor, whether maker, endorser, guarantor or otherwise, on account of any payment made hereunder, (iv) waive any right of subrogation to the rights, remedies, or security of Lender on account of any payment made hereunder, and (v) agree to pay on demand all costs of collection and/or enforcement of the indebtedness and other obligations evidenced hereby, including reasonable attorneys' and paralegals' fees and costs.

(e) *Assignment; Successors and Assigns; Binding Effect*. No assignment, transfer, delegation, or subcontract of any rights or obligations under this Note, in whole or in part, will be effective unless it is in writing, identified as such assignment, transfer, delegation, or subcontract, and signed by the non-assigning, non-transferring, non-delegating, or non-subcontracting party. Any purported assignment, transfer, delegation, or subcontract in violation of this Note, whether voluntary or by operation of law, directly or indirectly, shall be null and void and of no force and effect whatsoever. This Note is for the sole and exclusive benefit of Lender and Borrower and their respective successors and permitted assigns, and nothing in this Note, express or implied, is intended to, or shall, confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under, or by reason of, this Note. This Note shall be binding upon, inure to the benefit of, and be enforceable by Lender and Borrower and their respective successors and permitted assigns.

(f) *Governing Law*. This Note shall be governed by, and construed in accordance with, the internal laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the Commonwealth of Massachusetts.

(g) *Commercial Purpose; Security*. This Note evidences a loan for business and commercial purposes, and not for personal, family or household purposes, and this Note is secured by the Security Agreement.

(h) WAIVER OF JURY TRIAL. IN RECOGNITION OF THE HIGHER COSTS AND DELAY THAT MAY RESULT FROM A JURY TRIAL, LENDER AND BORROWER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING HEREUNDER, OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LENDER AND BORROWER OR EITHER OF THEM WITH RESPECT HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH OF LENDER AND BORROWER FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND EACH OF LENDER AND BORROWER HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT EITHER LENDER OR BORROWER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LENDER AND BORROWER TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY LENDER AND BORROWER, AND THESE PROVISIONS SHALL NOT BE SUBJECT TO ANY EXCEPTIONS. NEITHER PARTY HAS AGREED WITH OR REPRESENTED TO THE OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. LENDER SHALL BE BOUND BY THIS PARAGRAPH UPON ITS ACCEPTANCE OF THIS NOTE.

(i) *Severability*. If any term or provision of this Note is invalid, illegal, or unenforceable in any jurisdiction, then such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Note to effect the original intent of the parties as closely as possible in order for the transactions contemplated hereby to be consummated as originally contemplated to the greatest extent possible.

(j) *Headings*. The headings used in this Note are included only for convenience and are not to be used for the construction or interpretation of this Note in any respect.

(k) *Remedies*. The rights and remedies set forth under this Note are cumulative and not exclusive of any rights, remedies, powers, and privileges that may otherwise be available to Lender or Borrower.

(l) *Sealed Instrument*. This Note is intended to take effect as a sealed instrument.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the undersigned party has executed and delivered this Amended and Restated Promissory Note as a sealed instrument as of the first date written above.

BORROWER:

VANTAGE TRAVEL SERVICE, INC.

By:_____
Name: Gregory Del Greco
Title: Chief Operating Officer

SEEN AND AGREED BY LENDER:

PAUL GAUGUIN SHIPPING LIMITED

By:_____
Name:_____
Title:_____

THIRD AMENDED AND RESTATED PROMISSORY NOTE
(NON-REVOLVING LINE OF CREDIT)

$31,000,000.00

October 12, 2022
Boston, Massachusetts

This THIRD AMENDED AND RESTATED PROMISSORY NOTE (NON-REVOLVING LINE OF CREDIT) (this "**Note**"), is made and entered into effective as of the date hereof by VANTAGE TRAVEL SERVICE, INC., a Massachusetts business corporation ("**Borrower**"), in favor of HENRY R. LEWIS TRUST U/D/T NOVEMBER 24, 2004 (the "**Trust**") and HENRY R. LEWIS, an individual residing in the State of Florida ("**Lewis**" and, together with the Trust and their respective successors and permitted assigns, collectively, "**Lender**" and, each, a "**Lender**").

BACKGROUND

WHEREAS, on or about December 22, 2021, Paul Gauguin Shipping Limited, a Cayman Islands limited company (the "**Original Lender**"), made a loan to Borrower in the original principal amount of up to Two Million and 00/100 Dollars ($2,000,000.00), as evidenced by that certain Promissory Note (Non-Revolving Line of Credit), dated December 22, 2021, by Borrower in favor of Original Lender (the "**Original Note**"), and secured by that certain Security Agreement, dated December 22, 2021, by Borrower in favor of Original Lender (the "**Security Agreement**");

WHEREAS, on or about June 8, 2022, Original Lender and Borrower agreed to amend, restate, and replace the Original Note in its entirety upon the terms and conditions set forth in that certain Amended and Restated Promissory Note (Non-Revolving Line of Credit), dated June 8, 2022, by Borrower in favor of Original Lender, in the original principal amount of up to Four Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($4,513,838.86), as supplemented by that certain Acknowledgement of Loan Advance, dated August __, 2022, by and between Original Lender and Borrower (the "**Acknowledgment of Loan Advance**" and, together with such promissory note, the "**Amended and Restated Note**"), and as secured by the Security Agreement;

WHEREAS, on or about September 7, 2022, Original Lender and Borrower agreed to amend, restate, and replace the Amended and Restated Note in its entirety upon the terms and conditions set forth in that certain Second Amended and Restated Promissory Note, dated September 7, 2022, by Borrower in favor of Original Lender, in the original principal amount of up to Six Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($6,513,838.86) (the "**Current Note**"), as secured by the Security Agreement;

WHEREAS, Borrower was obligated under the time charter agreements relating to the ocean vessel "Explorer" and the ocean vessel "Odyssey" to make deposits of Five Million and 00/100 Dollars ($5,000,000.00) per vessel, for a total of Ten Million and 00/100 Dollars ($10,000,000.00), but was unable to do so, and, in each instance, Lender caused such deposits to be made, and the provision of such deposits or equivalent security were intended to be treated as advances under this Note and to be secured under the Security Agreement, creating an existing amount due, as of October 11, 2022, of Sixteen Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($16,513,838.86) plus interest thereon (the "**Existing Balance**");

WHEREAS, on near or even date herewith, Original Lender assigned to the Trust and Lewis all of Original Lender's right, title, and interest in, to, and under the Current Note and the Security

Agreement upon the terms and conditions set forth in that certain Assignment and Assumption Agreement, dated on near or even date herewith, by and among Original Lender, the Trust, and Lewis; and

WHEREAS, Borrower is in need of additional loans to fund ongoing operations and Lender and Borrower desire to amend, restate, and replace the Current Note in its entirety upon the terms and conditions set forth in this Note.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Borrower hereby agree as follows:

1. Definitions. For the purposes of this Note, the following terms shall have the following, respective meanings:

(a) "**Affiliate**" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person and, for purposes of such definition, the term "**control**" means the power, directly or indirectly, (i) to vote ten percent (10.00%) or more of the equity securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person, or (ii) to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

(b) "**Person**" means an individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, governmental authority, or other entity.

2. Loan Commitment; Loan Agent and Collateral Agent. Subject to the terms and conditions set forth in this Note, Borrower hereby promises to pay to the order of Lender, ON DEMAND, the principal sum of up to Thirty-One Million and 00/100 Dollars ($31,000,000.00) (the "**Maximum Loan Amount**") or so much thereof as may be advanced hereunder to Borrower by Lender or any Affiliate of Lender, together with interest on each Loan Advance (as defined below), such amount to be inclusive of the Existing Balance, and all other amounts due and payable hereunder, upon the terms and conditions set forth in this Note. Borrower shall comply with the following provisions to which this Note is subject and by which it is governed for so long as any portion of this Note remains outstanding and unpaid.

For the purposes of this Note, any and all Loan Advances made by any Affiliate of the Trust shall be deemed made by the Trust and the Trust shall have sole and exclusive authority and power to take such action, and to exercise such power, on behalf of any Affiliate of the Trust for purposes of enforcing and collecting this Note, exercising any and all rights and remedies hereunder, and acquiring, holding, and enforcing any and all security interests and other liens granted to the Trust as security in connection herewith, together with such other actions and powers as are reasonably incidental thereto.

For the purposes of this Note, any and all Loan Advances made by any Affiliate of Lewis shall be deemed made by Lewis and Lewis shall have sole and exclusive authority and power to take such action, and to exercise such power, on behalf of any Affiliate of Lewis for purposes of enforcing and collecting this Note, exercising any and all rights and remedies hereunder, and acquiring, holding, and enforcing any and all security interests and other liens granted to Lewis as security in connection herewith, together with such actions and powers as are reasonably incidental thereto.

3. Interest. During the period commencing on the date hereof and continuing up to, and including, the date on which the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full, simple interest shall accrue on each unpaid Loan Advance, computed from the date thereof, at a fixed rate equal to five percent (5.00%) per annum.

This Note is subject to the condition that, at no time, shall Borrower be obligated or required to pay interest at a rate that could subject Lender to civil or criminal liability, forfeiture, or loss of principal, interest, or other sums as a result of being in excess of the maximum rate of interest that Borrower is permitted by law to contract or agree to pay or that Lender is permitted to receive. If, by the terms and conditions set forth in this Note, Borrower is, at any time, required or obligated to pay interest at a rate in excess of such maximum rate, then the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate for so long as such maximum rate shall be in effect and shall thereafter be payable at the rate provided hereunder.

4. Loan Advances.

(a) During the Draw Period (as defined below), subject to the terms and conditions set forth in this Note, upon the prior request of Borrower to Lender, Lender may, in its sole and absolute discretion, make one or more advances (each, a "**Loan Advance**" and, collectively, the "**Loan Advances**") of the Maximum Loan Amount to Borrower; provided, however, that each Loan Advance shall not be less than One Hundred Thousand and 00/100 Dollars ($100,000.00) and that the Loan Advances, collectively, shall not, at any time, exceed the Maximum Loan Amount. Borrower may borrow Loan Advances and repay the same without premium or penalty therefor, subject to the applicable rate of interest and the Maximum Loan Amount, but Borrower may not re-borrow such sums as new Loan Advances. If, at any time, the Loan Advances, collectively, exceed the Maximum Loan Amount, then Borrower shall pay to Lender an amount equal to such excess on demand. For the purposes of this Note, the term "**Draw Period**" means the period commencing on the date hereof and continuing up to, but not including, the Maturity Date.

(b) Any Loan Advance shall be conclusively presumed to have been made to or for the benefit and at the request of Borrower when (i) deposited or credited to an account of Borrower with the Lender, or (ii) made in accordance with the oral or written instructions of Borrower or of anyone signing below for or on behalf of Borrower. Borrower hereby irrevocably authorizes Lender to make or cause to be made on the books of Lender, at or following the time of making of each Loan Advance and of receiving any payment of principal, an appropriate notation reflecting such transaction and the then-aggregate unpaid principal balance of the aggregate indebtedness outstanding hereunder. The amount so noted, and other regular entries by the Lender on its books with respect to interest and other charges, shall, absent manifest error, constitute presumptive evidence as to the amount owed by Borrower with respect to principal of the Loan Advances and with respect to interest and other charges.

(c) Payment; Maturity Date; Late Charge; Default Interest. Commencing on January 1, 2023, and continuing on the first (1st) day of each and every consecutive calendar quarter thereafter, Borrower shall pay to Lender quarterly payments of interest only. All principal, accrued and unpaid interest, and all other amounts due hereunder shall be due and payable in full on demand, with written notice provided by Lender to Borrower one hundred twenty (120) days in advance (the "**Maturity Date**").

Borrower shall pay to Lender a late charge in an amount equal to five percent (5.0%) of any amount due hereunder that is not paid within ten (10) days after the date when due. In addition, upon

the occurrence of an Event of Default (as defined below), interest on all unpaid balances hereunder shall accrue from the date of such Event of Default at a fixed rate equal to five percent (5.0%) in excess of the rate of interest otherwise applicable hereunder (the "**Default Rate**") until the earlier of the time that (i) Lender elects in its sole discretion to accept cure of such Event of Default in writing, or (ii) such balances are paid in full. All computations of interest due hereunder shall be based on the actual number of days elapsed over a calendar year consisting of three hundred (360) days. All interest at the Default Rate and late charges as described in this paragraph shall be due upon demand.

All payments of principal, interest, and all other amounts due and payable hereunder shall be made in lawful money of the United States of America by certified check or wire transfer of immediately available funds to the Trust's or Lewis's account at a bank or other financial institution specified by the Trust or Lewis to Borrower in writing from time to time. The foregoing payments may be applied as follows, as determined by Lender in its sole and absolute discretion: (1) first, to all late charges and other costs and expenses payable hereunder or in connection herewith, other than principal or interest, (2) second, to the interest on the unpaid principal balance of the debt evidenced hereby, and (3) the remainder, to the unpaid principal balance of the debt evidenced hereby, until the same is paid in full.

If any payment of principal or interest hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance, the obligation of Borrower and all other parties liable herefor shall, jointly and severally, to the extent thereof, survive as an obligation due hereunder and shall not be discharged by said payment, notwithstanding the return by Lender to Borrower or any other party of the original of this Note.

5. Default; Event of Default. Each and all of the following events shall constitute a "**Default**" hereunder and, after the giving of any required notice or the expiration of any applicable grace or cure period, shall each and all constitute an "**Event of Default**" hereunder: (a) Borrower fails to pay any amount when due under the Note and such failure continues for fifteen (15) days after the date when due; or (b) Borrower shall fails to pay when due any other sum, fee, charge, cost, or expense provided hereunder; or (c) Borrower fails to perform or observe any other term, covenant, or agreement contained in this Note on its part to be performed or observed; or (d) any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any other party liable herefor is proven to have been false or erroneous when made or furnished; or (e) the occurrence of a default in the terms, covenants or conditions contained in that certain Security Agreement, dated on near or even date herewith, by Borrower in favor of Lender (together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Security Agreement**"), and such default continues after the period, if any, set forth therein for the purpose of curing such default; or (f) the death, incapacity, dissolution, liquidation, or termination of existence of Borrower or any other party liable herefor; or (g) the loss, theft, substantial damage, to or of the Collateral (as defined in the Security Agreement), or the sale or encumbrance, whether junior or senior to Lender's lien or security interest, to or of the Collateral (or any portion thereof), or the making of any levy, seizure or attachment of or on the Collateral, or the failure to pay when due any tax thereon or, with respect to any insurance policy, any premium therefor; or (h) the occurrence of any adverse change in the condition or affairs of Borrower or any other party liable herefor, causing Lender reasonably to deem itself insecure; or (i) the entry of any judgment(s) or order(s) against Borrower that is not satisfied or appealed from (with execution or similar process stayed), within thirty (30) days after the date of entry thereof; or (j) Borrower or any other party liable herefor (1) applies for, or consents to, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (2) admits in writing its inability, or becomes generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) commences a voluntary case under the federal bankruptcy laws (as now or hereafter in effect), (5) files a petition seeking to take advantage of any other law providing for the relief of debtors, (6) acquiesces in, or fails to controvert in a timely manner, any

petition filed against it in any involuntary case under such bankruptcy laws, or (7) takes any corporate, partnership, or other entity action for the purpose of effecting any of the foregoing; or (k) a case or other proceeding is commenced without the application or consent of Borrower or any other party liable herefor in any court of competent jurisdiction seeking (1) the liquidation, the readjustment of debts, or reorganization of such party, (2) the appointment of a trustee, receiver, custodian, liquidator or the like of such party or of all or any substantial part of the assets of such party, (3) any similar action shall be taken with respect to such party under the federal bankruptcy laws (as now or hereafter in effect) or any other laws relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debt, and such case or proceeding remains undismissed or unstayed and in effect for a period of sixty (60) days thereafter, or (4) an order for relief against such party is entered in an involuntary case under such bankruptcy laws; or (*l*) the default of Borrower or any other party liable herefor under the terms of any instruments, documents or agreements evidencing or relating to any indebtedness of Borrower or any other party liable herefor from any lender other than Lender; or (m) any filing against or relating to Borrower or any other party liable herefor of a federal tax lien in favor of the United States of America or any political subdivision of the United States of America, or a state tax lien in favor of any state of the United States of America or any political subdivision of any such state; or (n) any change in ownership of the voting interests in Borrower.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, Lender may, in its sole and absolute discretion, upon written notice to Borrower, declare due and payable at once the entire principal balance hereof together with accrued interest and all other amounts due and payable hereunder, and Lender shall have such additional rights and remedies as are set forth in this Note, the Security Agreement, and applicable law. **Borrower hereby acknowledges and agrees that the inclusion of any event as a Default or an Event of Default hereunder does not in any way detract from the demand nature of this Note, and that Lender may make demand hereunder at any time, pursuant to Section 2 or 5 hereof, regardless of whether a Default or an Event of Default has occurred.**

7. No Management, Officer, or Ownership Rights. This Note shall not entitle Lender to any rights as a manager, officer, or member of Borrower in any respect.

8. Amendment and Restatement of Current Note. This Note amends, restates, and replaces the Current Note in its entirety. This Note is made in reaffirmation, modification, substitution, extension, rearrangement, and replacement of the Current Note, but this Note is not made in novation, discharge, satisfaction, or extinguishment of all or any portion of the Current Note. On and after the date of this Note, the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due, under the Current Note, shall remain outstanding under this Note and be governed by the terms of this Note.

Borrower hereby acknowledges and agrees that this Note and all Loan Advances made hereunder are, and shall continue to be, secured by the security interests created by the Security Agreement and any and all other security interests and other liens securing the Current Note and all Loan Advances made thereunder, all of which security interests and liens are hereby modified, extended, renewed, carried forward, and confirmed by Borrower in all respects and shall remain in full force and effect until the outstanding principal balance under this Note, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full. Borrower hereby further acknowledges and agrees that the term "Collateral" (as such quoted term is defined in the Security Agreement) includes, without limitation, all of Borrower's right, title, and interest in, to, and under the "LD Payments" (as such quoted term is defined in the Acknowledgement of Loan Advance).

9. Miscellaneous.

(a) *Notices*. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally-recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or electronic mail (with confirmation of transmission) if sent during normal business hours of the addressee, and on the next business day if sent after normal business hours of the addressee; or (iv) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Any communication hereunder must be sent to the applicable party's address set forth below or such other address that such party may designate from time to time in accordance with this Section:

If to Borrower:
Vantage Travel Service, Inc.
90 Canal Street
Boston, MA 02114
Attn: Greg Del Greco, Chief Operating Officer
E: gdelgreco@vantagetravel.com

with a copy to:
Vantage Travel Service, Inc.
90 Canal Street, Suite 100
Boston, MA 02114
Attn: Rossella Mercuri, Esq., General Counsel
T: 617-878-6070
E: rmercuri@vantagetravel.com

If to Lender:
Henry R. Lewis Trust u/d/t November 2004
c/o Mr. Henry R. Lewis
2500 S Ocean Boulevard, Apt. 3
Boca Raton, FL 33432-8423
E: hlewis@commonwealthboston.com

with a copy to:
Diamond McCarthy, LLP
909 Fannin Street, 37th Floor
Houston, TX 77010
Attn: Allan B. Diamond, Esq.
T: 713-333-5104
E: adiamond@diamondmccarthy.com

and

Bernstein Shur
100 Middle Street, West Tower
PO Box 9729
Portland, ME 04104-5029
Attn: Robert J. Keach, Esq.
T: 207-228-7334
E: rkeach@bernsteinshur.com

(b) *Entire Agreement*. This Note constitutes the sole and entire agreement of Lender and Borrower with respect to the subject matter hereof and thereof, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with

respect to the subject matter hereof and thereof.

(c) *Amendment*. No amendment, modification, or supplement to this Note will be effective unless it is in writing, identified as such amendment, modification, or supplement, and signed by Lender and Borrower. Any purported amendment, modification, or supplement to this Note in violation of this Section shall be null and void and of no force and effect whatsoever.

(d) *Waiver*. No waiver by any party of any of the provisions hereof will be effective unless it is in writing, identified as such waiver, and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Note shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Notwithstanding anything in this Note to the contrary, Borrower and all other parties liable herefor, whether principal, guarantor, endorser or otherwise, hereby severally (i) waive demand, presentment, protest and notice of every kind, (ii) waive all recourse to suretyship and guarantorship defenses generally, including, but not limited to, any extensions of time for payment or performance that may be granted to Borrower or to any other liable party, any modifications or amendments to this Note or any documents securing payment and performance hereof, any act or omission to act by or on behalf of Lender, any invalidity or unenforceability of any security, guaranty or endorsement given herefor, any release of security, whether any such release is intentional, unintentional or by operation of law, and all other indulgences of any type which may be granted by Lender to Borrower or to any other party liable herefor, (iii) waive any right to indemnity, contribution, exoneration or reimbursement of any kind by any other party directly or indirectly liable herefor, whether maker, endorser, guarantor or otherwise, on account of any payment made hereunder, (iv) waive any right of subrogation to the rights, remedies, or security of Lender on account of any payment made hereunder, and (v) agree to pay on demand all costs of collection and/or enforcement of the indebtedness and other obligations evidenced hereby, including reasonable attorneys' and paralegals' fees and costs.

(e) *Assignment; Successors and Assigns; Binding Effect*. No assignment, transfer, delegation, or subcontract of any rights or obligations under this Note, in whole or in part, will be effective unless it is in writing, identified as such assignment, transfer, delegation, or subcontract, and signed by the non-assigning, non-transferring, non-delegating, or non-subcontracting party. Any purported assignment, transfer, delegation, or subcontract in violation of this Note, whether voluntary or by operation of law, directly or indirectly, shall be null and void and of no force and effect whatsoever. This Note is for the sole and exclusive benefit of Lender and Borrower and their respective successors and permitted assigns, and nothing in this Note, express or implied, is intended to, or shall, confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under, or by reason of, this Note. This Note shall be binding upon, inure to the benefit of, and be enforceable by Lender and Borrower and their respective successors and permitted assigns.

(f) *Governing Law*. This Note shall be governed by, and construed in accordance with, the internal laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the Commonwealth of Massachusetts.

(g) *Commercial Purpose; Security*. This Note evidences a loan for business and commercial purposes, and not for personal, family or household purposes, and this Note is secured by the Security Agreement.

(h) WAIVER OF JURY TRIAL. IN RECOGNITION OF THE HIGHER COSTS AND DELAY THAT MAY RESULT FROM A JURY TRIAL, LENDER AND BORROWER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING HEREUNDER, OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LENDER AND BORROWER OR EITHER OF THEM WITH RESPECT HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH OF LENDER AND BORROWER FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND EACH OF LENDER AND BORROWER HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT EITHER LENDER OR BORROWER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LENDER AND BORROWER TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY LENDER AND BORROWER, AND THESE PROVISIONS SHALL NOT BE SUBJECT TO ANY EXCEPTIONS. NEITHER PARTY HAS AGREED WITH OR REPRESENTED TO THE OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. LENDER SHALL BE BOUND BY THIS PARAGRAPH UPON ITS ACCEPTANCE OF THIS NOTE.

(i) *Severability*. If any term or provision of this Note is invalid, illegal, or unenforceable in any jurisdiction, then such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Note to effect the original intent of the parties as closely as possible in order for the transactions contemplated hereby to be consummated as originally contemplated to the greatest extent possible.

(j) *Headings*. The headings used in this Note are included only for convenience and are not to be used for the construction or interpretation of this Note in any respect.

(k) *Remedies*. The rights and remedies set forth under this Note are cumulative and not exclusive of any rights, remedies, powers, and privileges that may otherwise be available to Lender or Borrower.

(l) *Sealed Instrument*. This Note is intended to take effect as a sealed instrument.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, Borrower has executed and delivered this Third Amended and Restated Promissory Note as a sealed instrument as of the first date written above.

BORROWER:

VANTAGE TRAVEL SERVICE, INC.

By:_____
Name: Gregory Del Greco
Title: Chief Operating Officer

SEEN AND AGREED BY LENDER:

_____
Name: Henry R. Lewis, Individually

HENRY R. LEWIS U/D/T NOVEMBER 24, 2004

By:_____ as Trustee
Name: ~~Henry R. Lewis~~ J. EKELH
Title: Settlor and Trustee

FOURTH AMENDED AND RESTATED PROMISSORY NOTE
(NON-REVOLVING LINE OF CREDIT)

$35,000,000.00

April 25, 2023
Boston, Massachusetts

This FOURTH AMENDED AND RESTATED PROMISSORY NOTE (NON-REVOLVING LINE OF CREDIT) (this "**Note**"), is made and entered into effective as of the date hereof by VANTAGE TRAVEL SERVICE, INC., a Massachusetts business corporation ("**Borrower**"), in favor of HENRY R. LEWIS TRUST U/D/T NOVEMBER 24, 2004 (the "**Trust**") and HENRY R. LEWIS, an individual residing in the State of Florida ("**Lewis**" and, together with the Trust and their respective successors and permitted assigns, collectively, "**Lender**" and, each, a "**Lender**").

BACKGROUND

WHEREAS, on or about December 22, 2021, Paul Gauguin Shipping Limited, a Cayman Islands limited company (the "**Original Lender**"), made a loan to Borrower in the original principal amount of up to Two Million and 00/100 Dollars ($2,000,000.00), as evidenced by that certain Promissory Note (Non-Revolving Line of Credit), dated December 22, 2021, by Borrower in favor of Original Lender, in the original principal amount of up to Two Million and 00/100 Dollars ($2,000,000.00) (the "**Original Note**"), and as secured by that certain Security Agreement, dated December 22, 2021, by Borrower in favor of Original Lender (together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Security Agreement**");

WHEREAS, the Original Note was subsequently amended, restated, and replaced in its entirety by:

(a) that certain Amended and Restated Promissory Note (Non-Revolving Line of Credit), dated June 8, 2022, by Borrower in favor of Original Lender, in the original principal amount of up to Four Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($4,513,838.86), as supplemented by that certain Acknowledgement of Loan Advance, dated on or about June 8, 2022, by and between Original Lender and Borrower;

(b) that certain Second Amended and Restated Promissory Note, dated September 7, 2022, by Borrower in favor of Original Lender, in the original principal amount of up to Six Million Five Hundred Thirteen Thousand Eight Hundred Thirty-Eight and 86/100 Dollars ($6,513,838.86) (On or about October 12, 2022, Original Lender subsequently assigned to the Trust and Lewis all of Original Lender's right, title, and interest in, to, and under such Second Amended and Restated Promissory Note and the Security Agreement upon the terms and conditions set forth in that certain Assignment and Assumption Agreement, dated October 12, 2022, by and among Original Lender, the Trust, and Lewis.); and

(c) that certain Third Amended and Restated Promissory Note, dated October 12, 2022, by Borrower in favor of Lender, in the original principal amount of Thirty-One Million and 00/100 Dollars ($31,000,000.00) (the Original Note, together with all such amendments, restatements, supplements, and other modifications thereto, collectively, the "**Current Note**"); and

WHEREAS, Borrower is in need of additional loans to fund ongoing operations and Lender and Borrower desire to amend, restate, and replace the Current Note in its entirety upon the terms and conditions set forth in this Note.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable

consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Borrower hereby agree as follows:

1. Definitions. For the purposes of this Note, the following terms shall have the following, respective meanings:

(a) "**Affiliate**" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, is in control of, is controlled by, or is under common control with, such Person and, for purposes of such definition, the term "**control**" means the power, directly or indirectly, (i) to vote ten percent (10.00%) or more of the equity securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person, or (ii) to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

(b) "**Person**" means an individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, governmental authority, or other entity.

2. Loan Commitment; Loan Agent and Collateral Agent. Subject to the terms and conditions set forth in this Note, Borrower hereby promises to pay to the order of Lender, ON DEMAND, the principal sum of up to Thirty-Five Million and 00/100 Dollars ($35,000,000.00) (the "**Maximum Loan Amount**") or so much thereof as may be advanced hereunder to Borrower by Lender or any Affiliate of Lender, together with interest on each Loan Advance (as defined below), such amount to be inclusive of the Existing Balance, and all other amounts due and payable hereunder, upon the terms and conditions set forth in this Note. Borrower shall comply with the following provisions to which this Note is subject and by which it is governed for so long as any portion of this Note remains outstanding and unpaid.

For the purposes of this Note, any and all Loan Advances made by any Affiliate of the Trust shall be deemed made by the Trust and the Trust shall have sole and exclusive authority and power to take such action, and to exercise such power, on behalf of any Affiliate of the Trust for purposes of enforcing and collecting this Note, exercising any and all rights and remedies hereunder, and acquiring, holding, and enforcing any and all security interests and other liens granted to the Trust as security in connection herewith, together with such other actions and powers as are reasonably incidental thereto.

For the purposes of this Note, any and all Loan Advances made by any Affiliate of Lewis shall be deemed made by Lewis and Lewis shall have sole and exclusive authority and power to take such action, and to exercise such power, on behalf of any Affiliate of Lewis for purposes of enforcing and collecting this Note, exercising any and all rights and remedies hereunder, and acquiring, holding, and enforcing any and all security interests and other liens granted to Lewis as security in connection herewith, together with such actions and powers as are reasonably incidental thereto.

3. Interest. During the period commencing on the date hereof and continuing up to, and including, the date on which the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full, simple interest shall accrue on each unpaid Loan Advance, computed from the date thereof, at a fixed rate equal to five percent (5.00%) per annum.

This Note is subject to the condition that, at no time, shall Borrower be obligated or required to pay interest at a rate that could subject Lender to civil or criminal liability, forfeiture, or loss of principal, interest, or other sums as a result of being in excess of the maximum rate of interest that Borrower is permitted by law to contract or agree to pay or that Lender is permitted to receive. If, by the terms and conditions set forth in this Note, Borrower is, at any time, required or obligated to pay interest at a rate in excess of such maximum rate, then the rate of interest under this Note shall be deemed to be

immediately reduced to such maximum rate for so long as such maximum rate shall be in effect and shall thereafter be payable at the rate provided hereunder.

4. Loan Advances.

(a) During the Draw Period (as defined below), subject to the terms and conditions set forth in this Note, upon the prior request of Borrower to Lender, Lender may, in its sole and absolute discretion, make one or more advances (each, a "**Loan Advance**" and, collectively, the "**Loan Advances**") of the Maximum Loan Amount to Borrower; provided, however, that each Loan Advance shall not be less than One Hundred Thousand and 00/100 Dollars ($100,000.00) and that the Loan Advances, collectively, shall not, at any time, exceed the Maximum Loan Amount. Borrower may borrow Loan Advances and repay the same without premium or penalty therefor, subject to the applicable rate of interest and the Maximum Loan Amount, but Borrower may not re-borrow such sums as new Loan Advances. If, at any time, the Loan Advances, collectively, exceed the Maximum Loan Amount, then Borrower shall pay to Lender an amount equal to such excess on demand. For the purposes of this Note, the term "**Draw Period**" means the period commencing on the date hereof and continuing up to, but not including, the Maturity Date.

(b) Any Loan Advance shall be conclusively presumed to have been made to or for the benefit and at the request of Borrower when (i) deposited or credited to an account of Borrower with the Lender, or (ii) made in accordance with the oral or written instructions of Borrower or of anyone signing below for or on behalf of Borrower. Borrower hereby irrevocably authorizes Lender to make or cause to be made on the books of Lender, at or following the time of making of each Loan Advance and of receiving any payment of principal, an appropriate notation reflecting such transaction and the then-aggregate unpaid principal balance of the aggregate indebtedness outstanding hereunder. The amount so noted, and other regular entries by the Lender on its books with respect to interest and other charges, shall, absent manifest error, constitute presumptive evidence as to the amount owed by Borrower with respect to principal of the Loan Advances and with respect to interest and other charges.

(c) Payment; Maturity Date; Late Charge; Default Interest. Commencing on July 1, 2023, and continuing on the first (1st) day of each and every consecutive calendar quarter thereafter, Borrower shall pay to Lender quarterly payments of interest only. All principal, accrued and unpaid interest, and all other amounts due hereunder shall be due and payable in full on demand, with written notice provided by Lender to Borrower one hundred twenty (120) days in advance (the "**Maturity Date**").

Borrower shall pay to Lender a late charge in an amount equal to five percent (5.0%) of any amount due hereunder that is not paid within ten (10) days after the date when due. In addition, upon the occurrence of an Event of Default (as defined below), interest on all unpaid balances hereunder shall accrue from the date of such Event of Default at a fixed rate equal to five percent (5.0%) in excess of the rate of interest otherwise applicable hereunder (the "**Default Rate**") until the earlier of the time that (i) Lender elects in its sole discretion to accept cure of such Event of Default in writing, or (ii) such balances are paid in full. All computations of interest due hereunder shall be based on the actual number of days elapsed over a calendar year consisting of three hundred (360) days. All interest at the Default Rate and late charges as described in this paragraph shall be due upon demand.

All payments of principal, interest, and all other amounts due and payable hereunder shall be made in lawful money of the United States of America by certified check or wire transfer of immediately available funds to the Trust's or Lewis's account at a bank or other financial institution specified by the Trust or Lewis to Borrower in writing from time to time. The foregoing payments may be applied as follows, as determined by Lender in its sole and absolute discretion: (1) first, to all late charges and other costs and expenses payable hereunder or in connection herewith, other than principal or interest, (2) second, to the interest on the unpaid principal balance of the debt evidenced hereby, and (3) the

remainder, to the unpaid principal balance of the debt evidenced hereby, until the same is paid in full.

If any payment of principal or interest hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance, the obligation of Borrower and all other parties liable herefor shall, jointly and severally, to the extent thereof, survive as an obligation due hereunder and shall not be discharged by said payment, notwithstanding the return by Lender to Borrower or any other party of the original of this Note.

5. Default; Event of Default. Each and all of the following events shall constitute a "**Default**" hereunder and, after the giving of any required notice or the expiration of any applicable grace or cure period, shall each and all constitute an "**Event of Default**" hereunder: (a) Borrower fails to pay any amount when due under the Note and such failure continues for fifteen (15) days after the date when due; or (b) Borrower shall fails to pay when due any other sum, fee, charge, cost, or expense provided hereunder; or (c) Borrower fails to perform or observe any other term, covenant, or agreement contained in this Note on its part to be performed or observed; or (d) any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower or any other party liable herefor is proven to have been false or erroneous when made or furnished; or (e) the occurrence of a default in the terms, covenants or conditions contained in that certain Security Agreement, dated on near or even date herewith, by Borrower in favor of Lender (together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Security Agreement**"), and such default continues after the period, if any, set forth therein for the purpose of curing such default; or (f) the death, incapacity, dissolution, liquidation, or termination of existence of Borrower or any other party liable herefor; or (g) the loss, theft, substantial damage, to or of the Collateral (as defined in the Security Agreement), or the sale or encumbrance, whether junior or senior to Lender's lien or security interest, to or of the Collateral (or any portion thereof), or the making of any levy, seizure or attachment of or on the Collateral, or the failure to pay when due any tax thereon or, with respect to any insurance policy, any premium therefor; or (h) the occurrence of any adverse change in the condition or affairs of Borrower or any other party liable herefor, causing Lender reasonably to deem itself insecure; or (i) the entry of any judgment(s) or order(s) against Borrower that is not satisfied or appealed from (with execution or similar process stayed), within thirty (30) days after the date of entry thereof; or (j) Borrower or any other party liable herefor (1) applies for, or consents to, the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (2) admits in writing its inability, or becomes generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) commences a voluntary case under the federal bankruptcy laws (as now or hereafter in effect), (5) files a petition seeking to take advantage of any other law providing for the relief of debtors, (6) acquiesces in, or fails to controvert in a timely manner, any petition filed against it in any involuntary case under such bankruptcy laws, or (7) takes any corporate, partnership, or other entity action for the purpose of effecting any of the foregoing; or (k) a case or other proceeding is commenced without the application or consent of Borrower or any other party liable herefor in any court of competent jurisdiction seeking (1) the liquidation, the readjustment of debts, or reorganization of such party, (2) the appointment of a trustee, receiver, custodian, liquidator or the like of such party or of all or any substantial part of the assets of such party, (3) any similar action shall be taken with respect to such party under the federal bankruptcy laws (as now or hereafter in effect) or any other laws relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debt, and such case or proceeding remains undismissed or unstayed and in effect for a period of sixty (60) days thereafter, or (4) an order for relief against such party is entered in an involuntary case under such bankruptcy laws; or (*l*) the default of Borrower or any other party liable herefor under the terms of any instruments, documents or agreements evidencing or relating to any indebtedness of Borrower or any other party liable herefor from any lender other than Lender; or (m) any filing against or relating to Borrower or any other party liable herefor of a federal tax lien in favor of the United States of America or any political subdivision of the United States of America, or a state tax lien in favor of any state of the United States of America or any political subdivision of any such state; or (n) any change in ownership of the voting

interests in Borrower.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, Lender may, in its sole and absolute discretion, upon written notice to Borrower, declare due and payable at once the entire principal balance hereof together with accrued interest and all other amounts due and payable hereunder, and Lender shall have such additional rights and remedies as are set forth in this Note, the Security Agreement, and applicable law. **Borrower hereby acknowledges and agrees that the inclusion of any event as a Default or an Event of Default hereunder does not in any way detract from the demand nature of this Note, and that Lender may make demand hereunder at any time, pursuant to Section 2 or 5 hereof, regardless of whether a Default or an Event of Default has occurred.**

7. No Management, Officer, or Ownership Rights. This Note shall not entitle Lender to any rights as a manager, officer, or member of Borrower in any respect.

8. Amendment and Restatement of Current Note. This Note amends, restates, and replaces the Current Note in its entirety. This Note is made in reaffirmation, modification, substitution, extension, rearrangement, and replacement of the Current Note, but this Note is not made in novation, discharge, satisfaction, or extinguishment of all or any portion of the Current Note. On and after the date of this Note, the outstanding principal balance, together with all accrued and unpaid interest and all other amounts due, under the Current Note, shall remain outstanding under this Note and be governed by the terms of this Note.

Borrower hereby acknowledges and agrees that this Note and all Loan Advances made hereunder are, and shall continue to be, secured by the security interests created by the Security Agreement and any and all other security interests and other liens securing the Current Note and all Loan Advances made thereunder, all of which security interests and liens are hereby modified, extended, renewed, carried forward, and confirmed by Borrower in all respects and shall remain in full force and effect until the outstanding principal balance under this Note, together with all accrued and unpaid interest and all other amounts due hereunder, are paid in full. Borrower hereby further acknowledges and agrees that the term "Collateral" (as such quoted term is defined in the Security Agreement) includes, without limitation, all of Borrower's right, title, and interest in, to, and under the "LD Payments" (as such quoted term is defined in the Acknowledgement of Loan Advance).

9. Miscellaneous.

(a) *Notices*. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be deemed to have been given: (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally-recognized overnight courier (receipt requested); (iii) on the date sent by facsimile or electronic mail (with confirmation of transmission) if sent during normal business hours of the addressee, and on the next business day if sent after normal business hours of the addressee; or (iv) on the third (3rd) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Any communication hereunder must be sent to the applicable party's address set forth below or such other address that such party may designate from time to time in accordance with this Section:

If to Borrower: Vantage Travel Service, Inc.
90 Canal Street
Boston, MA 02114
Attn: Greg Del Greco, Chief Operating Officer
E: gdelgreco@vantagetravel.com

with a copy to:
Vantage Travel Service, Inc.
90 Canal Street, Suite 100
Boston, MA 02114
Attn: Rossella Mercuri, Esq., General Counsel
T: 617-878-6070
E: rmercuri@vantagetravel.com

If to Lender:
Henry R. Lewis Trust u/d/t November 2004
c/o Mr. Henry R. Lewis
2500 S Ocean Boulevard, Apt. 3
Boca Raton, FL 33432-8423
E: hlewis@commonwealthboston.com

with a copy to:
Diamond McCarthy, LLP
909 Fannin Street, 37th Floor
Houston, TX 77010
Attn: Allan B. Diamond, Esq.
T: 713-333-5104
E: adiamond@diamondmccarthy.com

and

Bernstein Shur
100 Middle Street, West Tower
PO Box 9729
Portland, ME 04104-5029
Attn: Robert J. Keach, Esq.
T: 207-228-7334
E: rkeach@bernsteinshur.com

(b) *Entire Agreement*. This Note constitutes the sole and entire agreement of Lender and Borrower with respect to the subject matter hereof and thereof, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter hereof and thereof.

(c) *Amendment*. No amendment, modification, or supplement to this Note will be effective unless it is in writing, identified as such amendment, modification, or supplement, and signed by Lender and Borrower. Any purported amendment, modification, or supplement to this Note in violation of this Section shall be null and void and of no force and effect whatsoever.

(d) *Waiver*. No waiver by any party of any of the provisions hereof will be effective unless it is in writing, identified as such waiver, and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Note shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Notwithstanding anything in this Note to the contrary, Borrower and all other

parties liable herefor, whether principal, guarantor, endorser or otherwise, hereby severally (i) waive demand, presentment, protest and notice of every kind, (ii) waive all recourse to suretyship and guarantorship defenses generally, including, but not limited to, any extensions of time for payment or performance that may be granted to Borrower or to any other liable party, any modifications or amendments to this Note or any documents securing payment and performance hereof, any act or omission to act by or on behalf of Lender, any invalidity or unenforceability of any security, guaranty or endorsement given herefor, any release of security, whether any such release is intentional, unintentional or by operation of law, and all other indulgences of any type which may be granted by Lender to Borrower or to any other party liable herefor, (iii) waive any right to indemnity, contribution, exoneration or reimbursement of any kind by any other party directly or indirectly liable herefor, whether maker, endorser, guarantor or otherwise, on account of any payment made hereunder, (iv) waive any right of subrogation to the rights, remedies, or security of Lender on account of any payment made hereunder, and (v) agree to pay on demand all costs of collection and/or enforcement of the indebtedness and other obligations evidenced hereby, including reasonable attorneys' and paralegals' fees and costs.

(e) *Assignment; Successors and Assigns; Binding Effect*. No assignment, transfer, delegation, or subcontract of any rights or obligations under this Note, in whole or in part, will be effective unless it is in writing, identified as such assignment, transfer, delegation, or subcontract, and signed by the non-assigning, non-transferring, non-delegating, or non-subcontracting party. Any purported assignment, transfer, delegation, or subcontract in violation of this Note, whether voluntary or by operation of law, directly or indirectly, shall be null and void and of no force and effect whatsoever. This Note is for the sole and exclusive benefit of Lender and Borrower and their respective successors and permitted assigns, and nothing in this Note, express or implied, is intended to, or shall, confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under, or by reason of, this Note. This Note shall be binding upon, inure to the benefit of, and be enforceable by Lender and Borrower and their respective successors and permitted assigns.

(f) *Governing Law*. This Note shall be governed by, and construed in accordance with, the internal laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the Commonwealth of Massachusetts.

(g) *Commercial Purpose; Security*. This Note evidences a loan for business and commercial purposes, and not for personal, family or household purposes, and this Note is secured by the Security Agreement.

(h) WAIVER OF JURY TRIAL. IN RECOGNITION OF THE HIGHER COSTS AND DELAY THAT MAY RESULT FROM A JURY TRIAL, LENDER AND BORROWER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (I) ARISING HEREUNDER, OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LENDER AND BORROWER OR EITHER OF THEM WITH RESPECT HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH OF LENDER AND BORROWER FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED; AND EACH OF LENDER AND BORROWER HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT EITHER LENDER OR BORROWER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LENDER

AND BORROWER TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY LENDER AND BORROWER, AND THESE PROVISIONS SHALL NOT BE SUBJECT TO ANY EXCEPTIONS. NEITHER PARTY HAS AGREED WITH OR REPRESENTED TO THE OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. LENDER SHALL BE BOUND BY THIS PARAGRAPH UPON ITS ACCEPTANCE OF THIS NOTE.

(i) *Severability*. If any term or provision of this Note is invalid, illegal, or unenforceable in any jurisdiction, then such invalidity, illegality or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Note to effect the original intent of the parties as closely as possible in order for the transactions contemplated hereby to be consummated as originally contemplated to the greatest extent possible.

(j) *Headings*. The headings used in this Note are included only for convenience and are not to be used for the construction or interpretation of this Note in any respect.

(k) *Remedies*. The rights and remedies set forth under this Note are cumulative and not exclusive of any rights, remedies, powers, and privileges that may otherwise be available to Lender or Borrower.

(l) *Sealed Instrument*. This Note is intended to take effect as a sealed instrument.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, Borrower has executed and delivered this Fourth Amended and Restated Promissory Note as a sealed instrument as of the first date written above.

BORROWER:

VANTAGE TRAVEL SERVICE, INC.

By:_____
Name: Gregory Del Greco
Title: Chief Operating Officer

SEEN AND AGREED BY LENDER:

_____
Name: Henry R. Lewis, Individually

HENRY R. LEWIS U/D/T NOVEMBER 24, 2004

By:_____
Name: Henry R. Lewis
Title: Settlor and Trustee

EXHIBIT B

SECURITY AGREEMENT

This SECURITY AGREEMENT (this "**Agreement**") is made and entered into effective as of December 22, 2021 (the "**Effective Date**"), by VANTAGE TRAVEL SERVICE, INC., a Massachusetts business corporation with a place of business in Boston, Massachusetts ("**Debtor**"), in favor of PAUL GAUGUIN SHIPPING LIMITED, a Cayman Islands limited company (together with its successors and permitted assigns, collectively, "**Secured Party**").

BACKGROUND

WHEREAS, Secured Party is contemporaneously herewith making a certain loan or loans (collectively, the "**Loan**") to Debtor upon the terms and conditions set forth in, and as evidenced by, that certain Promissory Note, dated on near or even date herewith, by Debtor in favor of Secured Party, in the original principal amount of up to Two Million and 00/100 Dollars ($2,000,000.00) (together with any and all amendments, restatements, supplements, and other modifications thereto, collectively, the "**Note**"); and

WHEREAS, in order to induce Secured Party to make the Loan to Debtor, Debtor has agreed to execute and deliver this Agreement to Secured Party.

NOW, THEREFORE, in consideration of the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Debtor, Debtor hereby agrees as follows:

1. Definitions. The following terms shall have the following, respective meanings:

(a) "**Collateral**" means the following properties, assets, and rights of Debtor, wherever located, whether now owned or hereafter acquired or arising, and all Proceeds and products thereof: All personal property and Fixtures of every kind and nature, including, without limitation, all Goods (including Inventory, Equipment and any Accessions thereto and further including any software embedded in Goods), Instruments (including Promissory Notes), Documents, Accounts (including Health-Care-Insurance Receivables), Chattel Paper (whether tangible or Electronic Chattel Paper), Deposit Accounts, As-Extracted Collateral, Letter-Of-Credit Rights (whether or not the Letter of Credit is evidenced by a writing), Commercial Tort Claims, all Investment Property, including Securities, Supporting Obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, tort claims, and all General Intangibles including, without limitation, all Payment Intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, Software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, and agreements of any kind or nature pursuant to which Debtor possesses, uses, or has authority to possess or use property (whether tangible or intangible) of others or others possess, use, or have authority to possess or use property (whether tangible or intangible) of Debtor, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all Software, writings, plans, specifications and schematics. Any reference to "Collateral" in this Agreement shall be deemed a reference to all of the above-described Collateral, and to any portion or type thereof. Some or all of the Fixtures may be attached to the real property and improvements thereon owned, leased, used, or occupied by Debtor located at and near 90 Canal Street in Boston, Massachusetts.

(b) "**Event of Default**" means the occurrence of any or all of the following events: (i) the occurrence of an "Event of Default" as such quoted term is defined in the Note; or (ii) Debtor fails to pay any amount when due under this Agreement; or (iii) Debtor fails to observe or perform any other

covenant or agreement contained in this Agreement; or (iv) except upon the prior written consent of Secured Party, Secured Party receives at any time a report with respect to any public filing office indicating that Secured Party's security interest in the Collateral is not prior to all other security interests or other interests reflected in the report.

(c) "**Loan Documents**" means all documents, Instruments, or agreements now or hereafter evidencing, securing, or otherwise relating to the indebtedness evidenced by the Note, which include, without limitation, this Agreement, as each such document, Instrument, or agreement may be amended, modified, extended, replaced, or supplemented from time to time.

(d) "**Obligations**" means, collectively, (i) the indebtedness evidenced by the Note, and (ii) any and all other liabilities, advances, loans, sums due or to become due under any indebtedness of Debtor to Secured Party of every kind, nature, and description (whether or not evidenced by any Promissory Note or other Instrument, and whether or not for the payment of money), direct or indirect, absolute or contingent, primary or secondary, joint or several, secured or unsecured, due or to become due, now existing or hereafter arising, regardless of how they arise or were acquired, and (iii) any liability of Debtor to Secured Party as a guarantor or surety of the indebtedness or liabilities of others, and (iv) obligations to pay money, and all interest, fees, charges and reasonable expenses (including reasonable attorneys' and paralegals' fees) paid or incurred by Secured Party at any time in connection with the commitment for, preparation, execution, delivery, amendment, review, perfection, administration and/or enforcement of this Agreement or any of the other Loan Documents, and (v) to the extent not included in the foregoing, all obligations of Debtor to Secured Party pursuant to the Loan Documents, including all obligations to perform acts or refrain from taking action thereunder.

(e) "**UCC**" means the Massachusetts Uniform Commercial Code, as it may be amended or supplemented from time to time. All capitalized words and terms used in this Agreement and in any supplement or amendment hereto, other than those specifically otherwise defined in this Agreement, shall have the respective meanings, if any, assigned to them in the UCC; provided however, that the term "Instrument" shall have the meaning assigned it in Article 9 of the UCC, rather than Article 3 of the UCC.

2. Grant of Security Interest. Debtor hereby grants a security interest in the Collateral to Secured Party to secure the payment and performance of the Obligations.

3. Perfection of Security Interest.

(a) *Filing of Financing Statement*. Debtor hereby authorizes Secured Party to file a financing statement (the "**Financing Statement**") describing the Collateral or any agricultural liens or other statutory liens held by Secured Party.

(b) *Possession*. Debtor shall have possession of the Collateral, except where expressly otherwise provided in this Agreement or where Secured Party chooses to perfect its security interest in the Collateral by possession of the Collateral in addition to the filing of a Financing Statement with respect thereto. Where Collateral is in the possession of a third party, Debtor will join with Secured Party in notifying the third party of Secured Party's security interest in such Collateral and obtaining an acknowledgment from the third party that it is holding such Collateral for the benefit of Secured Party.

(c) *Control*. Debtor will cooperate with Secured Party in obtaining control with respect to Collateral consisting of (i) Investment Property, (ii) Deposit Accounts, (iii) Letter-Of-Credit Rights, and (iv) Electronic Chattel Paper.

(d) *Marking of Chattel Paper*. Debtor will not create any Chattel Paper without placing a legend on the Chattel Paper acceptable to Secured Party indicating that Secured Party has a security interest in the Chattel Paper.

4. Post-Closing Covenants and Rights Concerning the Collateral.

(a) *Inspection*. The parties to this Agreement may inspect any Collateral in the other party's possession, at any time upon reasonable notice.

(b) *Personal Property*. The Collateral shall remain personal property at all times. Debtor shall not affix any of the Collateral to any real property in any manner that would change its nature from that of personal property to real property or to a Fixture.

(c) *Secured Party's Collection Rights*. Secured Party shall have the right at any time to enforce Debtor's rights against the Account Debtors and obligors under any Instruments.

(d) *Risk of Loss; Insurance*. Debtor has the risk of loss of the Collateral. Debtor will keep the Collateral insured at all times in such amounts (which must in any event be sufficient to satisfy the co-insurance provisions of the applicable insurance policies), with such coverage and with such companies as Secured Party may from time to time reasonably require. All such policies of insurance shall provide that they may not be canceled without first giving Secured Party with written notice of cancellation at least thirty (30) days prior to the effective date of such cancellation, and all casualty insurance on Collateral shall name Secured Party as the primary loss payee, and shall provide that Secured Party's interests under such casualty insurance shall not be invalidated or affected in any way by any act or neglect of Debtor or of any other person or entity. Debtor shall deliver a certificate with respect to each policy concurrently with the execution hereof, annually thereafter, and from time to time upon the request of Secured Party, and Debtor shall further deliver to Secured Party, upon Secured Party's request, the complete policies of such insurance. In the event that Debtor fails to provide evidence of the maintenance of such insurance satisfactory to Secured Party, Secured Party may, at its option, secure such insurance and add the cost thereof to the Obligations secured hereby.

(e) *No Collection Obligation*. Secured Party shall have no duty to collect any income accruing on the Collateral or to preserve any rights relating to the Collateral.

(f) *No Disposition of Collateral*. Secured Party does not authorize, and Debtor agrees not to (i) make any sales or leases of any of the Collateral, (ii) license any of the Collateral, or (iii) grant any other security interest in any of the Collateral.

(g) *Purchase Money Security Interests*. To the extent Debtor uses the Loan to purchase Collateral, Debtor's repayment of the Loan shall apply on a "first-in-first-out" basis so that the portion of the Loan used to purchase a particular item of Collateral shall be paid in the chronological order Debtor purchased the Collateral.

5. Representations and Warranties. Debtor represents and warrants that:

(a) *Title to and Transfer of Collateral*. It has rights in or the power to transfer the Collateral and its title to the Collateral is free of all adverse claims, liens, security interests, and restrictions on transfer or pledge except as created by this Agreement or upon the prior written consent of Secured Party.

(b) *Location of Collateral*. All Collateral consisting of Goods is located solely in the Commonwealth of Massachusetts.

(c) *Location, State of Incorporation, and Name of Debtor*. Debtor's (i) chief executive office is located in the Commonwealth of Massachusetts; (ii) state of incorporation is the Commonwealth of Massachusetts; and (iii) exact legal name is as set forth in the first paragraph of this Agreement.

6. Debtor's Covenants. Until the Obligations are paid in full, Debtor agrees that it will (i) preserve its corporate existence and not, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets, (ii) not change the state of its incorporation, and (iii) not change its name without providing Secured Party with written notice thereof at least thirty (30) days prior to the effective date of such change.

7. Costs. Debtor will pay to Secured Party, on demand, all costs reasonably incurred by Secured Party for the purpose of enforcing its rights hereunder, including (i) costs of foreclosure, (ii) costs of obtaining money damages; and (iii) a reasonable fee for the services of attorneys or paralegals employed by Secured Party for any purpose related to this Agreement or the Obligations, including consultation, drafting documents, sending notices or instituting, prosecuting or defending litigation or arbitration.

8. Remedies Upon Event of Default.

(a) *General*. Secured Party may pursue any remedy available at law (including those available under the UCC), or in equity to collect, enforce or satisfy any Obligations then owing, whether by acceleration or otherwise.

(b) *Additional Remedies*. Secured Party shall have the right to pursue any of the following remedies separately, successively or simultaneously: (i) file suit and obtain judgment and, in conjunction with any action, Secured Party may seek any ancillary remedies provided by law, including levy of attachment and garnishment; (ii) take possession of any Collateral if not already in its possession, without demand and without legal process (Upon Secured Party's demand, Debtor will assemble and make the Collateral available to Secured Party as Secured Party directs. Debtor grants to Secured Party the right, for this purpose, to enter into or on any premises where Collateral may be located); and/or (iii) without taking possession, sell, lease, or otherwise dispose of the Collateral at public or private sale in accordance with the UCC.

9. Foreclosure Procedures.

(a) *No Waiver*. No failure to exercise and no delay in exercising, on the part of Secured Party, any right or remedy accruing upon any Event of Default shall: (i) impair any right or remedy, (ii) waive or operate as an acquiescence to any Event of Default, or (iii) affect any subsequent Event of Default of the same or of a different nature.

(b) *Notices*. Secured Party shall give Debtor such notice of any private or public sale as may be required by the UCC.

(c) *Condition of Collateral*. Secured Party has no obligation to clean up or otherwise prepare the Collateral for sale.

(d) *No Obligation to Pursue Others*. Secured Party has no obligation to attempt to satisfy the Obligations by collecting them from any other person liable for them, and Secured Party may release, modify, or waive any collateral provided by any other person to secure any of the Obligations, all without affecting Secured Party's rights against Debtor. Debtor waives any right it may have to require Secured Party to pursue any third person for any of the Obligations.

(e) *Compliance With Other Laws*. Secured Party may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

(f) *Warranties*. Secured Party may sell the Collateral without giving any warranties as to the Collateral. Secured Party may specifically disclaim any warranties of title or the like. This procedure will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

(g) *Sales on Credit*. If Secured Party sells any of the Collateral upon credit, Debtor will be credited only with payments actually made by the purchaser, received by Secured Party, and applied to the indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, Secured Party may resell the Collateral and Debtor shall be credited with the proceeds of the sale.

(h) *Purchases by Secured Party*. In the event Secured Party purchases any of the Collateral being sold, Secured Party may pay for the Collateral by crediting some or all of the Obligations of Debtor.

(i) *No Marshaling*. Secured Party have no obligation to marshal any assets in favor of Debtor, or against or in payment of (i) the Note, (ii) any of the other Obligations, or (iii) any other obligation owed to Secured Party by Debtor or any other person.

10. Miscellaneous.

(a) *Successors and Assigns; Assignment*. This Agreement shall bind and shall inure to the benefit of the heirs, legatees, executors, administrators, successors and assigns of Secured Party and shall bind all persons who become bound as a debtor to this Agreement. Secured Party does not consent to any assignment by Debtor except as expressly provided in this Agreement. Secured Party may assign its rights and interests under this Agreement. If an assignment is made, Debtor shall render performance under this Agreement to the assignee. Debtor waives and will not assert against any assignee any claims, defenses or set-offs that Debtor could assert against Secured Party, except defenses that cannot be waived.

(b) *Severability*. If any term or provision of this Agreement or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to parties or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the maximum extent permitted by law.

(c) *Notices*. All Notices (as defined in the Note) shall be made, given, or furnished in the manner, and to the respective addresses of the parties, provided in the paragraph of the Note pertaining to Notices.

Any party may change the address to which any Notice is to be delivered to any other address within the United States of America by furnishing written Notice of such change at least fifteen (15) days prior to the effective date of such change to the other parties in the manner set forth above, but

no such Notice of change shall be effective unless and until received by such other parties. Rejection or refusal to accept, or inability to deliver because of changed address or because no Notice of changed address was given, shall be deemed to be receipt of any such Notice. Any Notice to an entity shall be deemed to be given on the date specified in this paragraph, without regard to when such Notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a Notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity shall not affect the effectiveness of such Notice. Notices may be given on behalf of any party by such party's attorneys.

(d) *Construction*. The captions or headings at the beginning of each paragraph hereof are for the convenience of the parties hereto and are not a part of this Agreement. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender or the neuter shall be applicable to all genders and the neuter. References to a person or entity are, unless the context otherwise requires, also to its heirs, executors, legal representatives, successors, and assigns, as applicable. As used herein, the terms "include," "includes," and "including" shall be deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import. No reference to "proceeds" in this Agreement authorizes any sale, transfer, or other disposition of the Collateral by Debtor. "Or" is not exclusive. "All" includes "any" and "any" includes "all."

(e) *Governing Law*. This Agreement is being executed and delivered and is intended to be performed in the Commonwealth of Massachusetts and shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, except to the extent that the UCC provides for the application of the law of another state.

(f) *Merger*. This Agreement is the entire agreement of Debtor and Secured Party concerning its subject matter.

(g) *No Oral Modification*. This Agreement and each and all of the provisions hereof cannot be altered, modified, amended, waived, extended, changed, discharged, or terminated orally or by any act of Debtor or Secured Party, but only by an agreement in writing signed by the party against whom enforcement of any alteration, modification, amendment, waiver, extension, change, discharge, or termination is sought. Any party to this Agreement may waive the enforcement of any provision to the extent the provision is for its benefit.

(h) *Further Assurances*. Debtor will, at its expense, upon the request of Secured Party promptly and duly execute and deliver such documents and assurances and take such actions as may be necessary or desirable in Secured Party's sole discretion in order to correct any defect, error or omission that may at any time be discovered in this Agreement or the documents related hereto, or to carry out more effectively the intent and purpose of this Agreement, or to establish, perfect and protect Secured Party's security interest, rights and remedies created or intended to be created hereunder. Without limiting the generality of the foregoing, Debtor authorizes Secured Party to file, or Debtor will itself file, in all offices and jurisdictions requested by Secured Party, at Debtor's expense, financing and continuation statements pursuant to the UCC or other notices appropriate under applicable federal or state law in form satisfactory to Secured Party.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, Debtor has executed and delivered this Security Agreement as of the Effective Date.

DEBTOR:

VANTAGE TRAVEL SERVICE, INC.

By: _____
Name: Gregory Del Greco
Title: Chief Operating Officer

SCHEDULE A TO UCC-1 FINANCING STATEMENT

Secured Party: Paul Gauguin Shipping Limited

Debtor: Vantage Travel Service, Inc.

The following properties, assets and rights of Debtor, wherever located, whether now owned or hereafter acquired or arising, and all Proceeds and products thereof: All personal property and Fixtures of every kind and nature, including, without limitation, all Goods (including Inventory, Equipment and any Accessions thereto and further including any software embedded in Goods), Instruments (including Promissory Notes), Documents, Accounts (including Health-Care-Insurance Receivables), Chattel Paper (whether tangible or Electronic Chattel Paper), Deposit Accounts, As-Extracted Collateral, Letter-Of-Credit Rights (whether or not the Letter of Credit is evidenced by a writing), Commercial Tort Claims, all Investment Property, including Securities, Supporting Obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, tort claims, and all General Intangibles including, without limitation, all Payment Intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, Software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, and agreements of any kind or nature pursuant to which Debtor possesses, uses or has authority to possess or use property (whether tangible or intangible) of others or others possess, use or have authority to possess or use property (whether tangible or intangible) of Debtor, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all Software, writings, plans, specifications and schematics.

Some or all of the Fixtures may be attached to the real property and improvements thereon owned, leased, used, or occupied by Debtor located at and near 90 Canal Street in Boston, Massachusetts.

All capitalized words and terms used in this Schedule, shall have the respective meanings, if any, assigned to them in the Massachusetts Uniform Commercial Code, as it may be amended or supplemented from time to time; provided however, that the term "Instrument" shall be such term as defined in Article 9 of the Massachusetts Uniform Commercial Code rather than Article 3.

EXHIBIT C

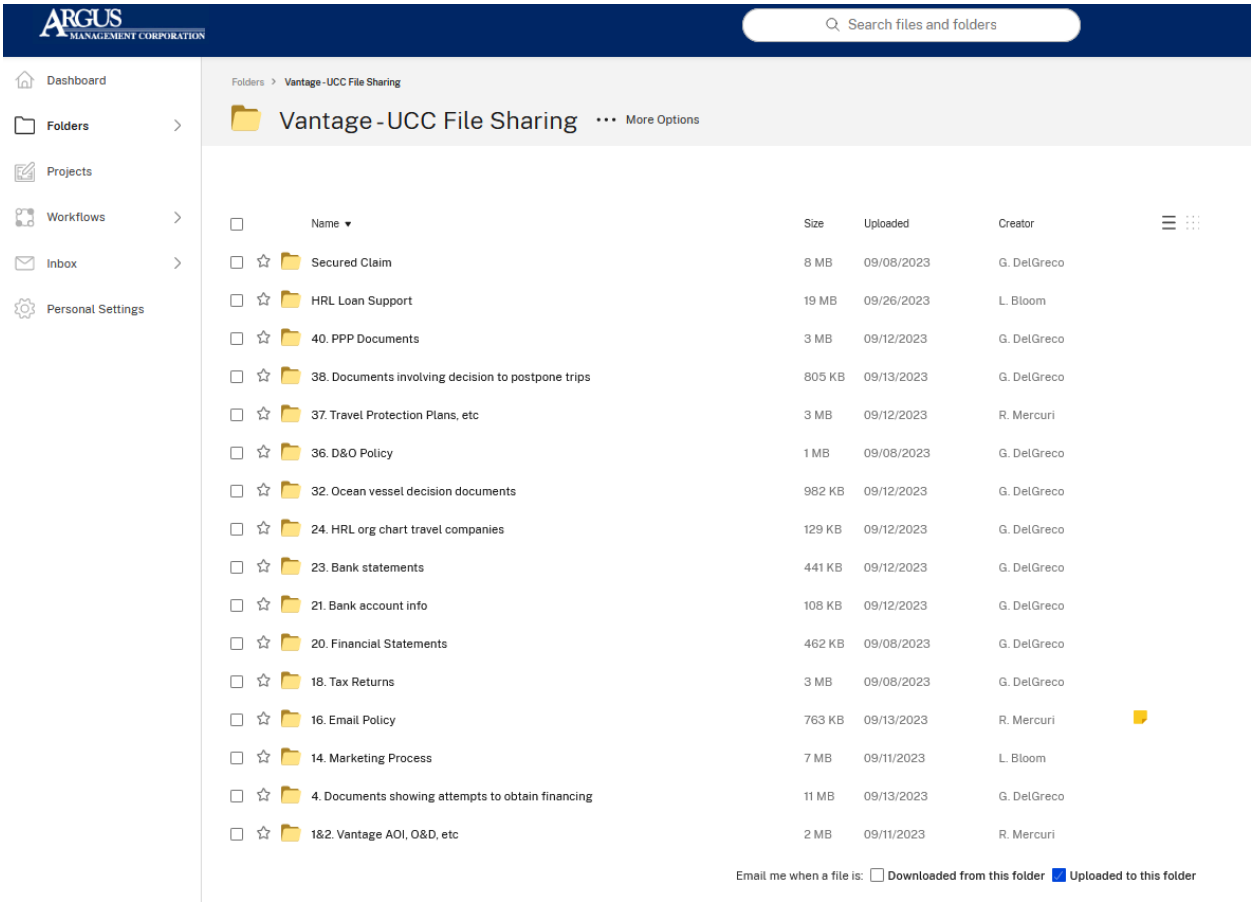

ARGUS
MANAGEMENT CORPORATION
Search files and folders
Dashboard
Folders
Projects
Workflows
Inbox
Personal Settings
Folders > Vantage - UCC File Sharing
Vantage - UCC File Sharing
More Options
Name
Size
Uploaded
Creator
Secured Claim 8 MB 09/08/2023 G. DelGreco
HRL Loan Support 19 MB 09/26/2023 L. Bloom
40. PPP Documents 3 MB 09/12/2023 G. DelGreco
38. Documents involving decision to postpone trips 805 KB 09/13/2023 G. DelGreco
37. Travel Protection Plans, etc 3 MB 09/12/2023 R. Mercuri
36. D&O Policy 1 MB 09/08/2023 G. DelGreco
32. Ocean vessel decision documents 982 KB 09/12/2023 G. DelGreco
24. HRL org chart travel companies 129 KB 09/12/2023 G. DelGreco
23. Bank statements 441 KB 09/12/2023 G. DelGreco
21. Bank account info 108 KB 09/12/2023 G. DelGreco
20. Financial Statements 462 KB 09/08/2023 G. DelGreco
18. Tax Returns 3 MB 09/08/2023 G. DelGreco
16. Email Policy 763 KB 09/13/2023 R. Mercuri
14. Marketing Process 7 MB 09/11/2023 L. Bloom
4. Documents showing attempts to obtain financing 11 MB 09/13/2023 G. DelGreco
1&2. Vantage AOI, O&D, etc 2 MB 09/11/2023 R. Mercuri
Email me when a file is: Downloaded from this folder Uploaded to this folder

EXHIBIT D

UCC-1 Form

FILER INFORMATION

Full name: **GISELLE PAQUETTE**

Email Contact at Filer: **GPAQUETTE@BERNSTEINSHUR.COM**

SEND ACKNOWLEDGEMENT TO

Contact name: **BERNSTEIN SHUR**

Mailing Address: **100 MIDDLE STREET, PO BOX 9729**

City, State Zip Country: **PORTLAND, ME 04104-5029 USA**

DEBTOR INFORMATION

Org. Name: **VANTAGE TRAVEL SERVICE, INC.**

Mailing Address: **90 CANAL STREET**

City, State Zip Country: **BOSTON, MA 02114 USA**

SECURED PARTY INFORMATION

Org. Name: **PAUL GAUGUIN SHIPPING LIMITED C/O HENRY R. LEWIS**

Mailing Address: **2500 S OCEAN BOULEVARD, APT. 3**

City, State Zip Country: **BOCA RATON, FL 33432-8423 USA**

TRANSACTION TYPE: STANDARD

CUSTOMER REFERENCE: MASSACHUSETTS SECRETARY OF THE COMMONWEALTH

COLLATERAL

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF.

SCHEDULE A TO UCC-1 FINANCING STATEMENT

Secured Party: Paul Gauguin Shipping Limited

Debtor: Vantage Travel Service, Inc.

The following properties, assets and rights of Debtor, wherever located, whether now owned or hereafter acquired or arising, and all Proceeds and products thereof: All personal property and Fixtures of every kind and nature, including, without limitation, all Goods (including Inventory, Equipment and any Accessions thereto and further including any software embedded in Goods), Instruments (including Promissory Notes), Documents, Accounts (including Health-Care-Insurance Receivables), Chattel Paper (whether tangible or Electronic Chattel Paper), Deposit Accounts, As-Extracted Collateral, Letter-Of-Credit Rights (whether or not the Letter of Credit is evidenced by a writing), Commercial Tort Claims, all Investment Property, including Securities, Supporting Obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, tort claims, and all General Intangibles including, without limitation, all Payment Intangibles, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, Software, engineering drawings, service marks, customer lists, goodwill, and all licenses, permits, and agreements of any kind or nature pursuant to which Debtor possesses, uses or has authority to possess or use property (whether tangible or intangible) of others or others possess, use or have authority to possess or use property (whether tangible or intangible) of Debtor, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all Software, writings, plans, specifications and schematics.

Some or all of the Fixtures may be attached to the real property and improvements thereon owned, leased, used, or occupied by Debtor located at and near 90 Canal Street in Boston, Massachusetts.

All capitalized words and terms used in this Schedule, shall have the respective meanings, if any, assigned to them in the Massachusetts Uniform Commercial Code, as it may be amended or supplemented from time to time; provided however, that the term "Instrument" shall be such term as defined in Article 9 of the Massachusetts Uniform Commercial Code rather than Article 3.

EXHIBIT E

[redacted]

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
Giselle A. Paquette, Sr. Corporate Paralegal - 207.774.1200

B. E-MAIL CONTACT AT FILER (optional)
gpaquette@bernsteinshur.com

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

Giselle A. Paquette, Sr. Corporate Paralegal
Bernstein ShurP.O. Box 9729
Portland, ME 04104-5029

Print Reset

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER
202183907110

1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS
Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ☑ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. ☐ PARTY INFORMATION CHANGE:

Check one of these two boxes:
This Change affects ☐ Debtor or ☐ Secured Party of record

AND Check one of these three boxes to:
☐ CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c
☐ ADD name: Complete item 7a or 7b, and item 7c
☐ DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME
Henry R. Lewis Trust u/d/t November 2004

OR

7b. INDIVIDUAL'S SURNAME

INDIVIDUAL'S FIRST PERSONAL NAME

INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
c/o Henry R. Lewis, 2500 S Ocean Blvd., Apt. 3	**Boca Raton**	**FL**	**33432-8423**	**USA**

8. ☐ COLLATERAL CHANGE: Also check one of these four boxes: ☐ ADD collateral ☐ DELETE collateral ☐ RESTATE covered collateral ☐ ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)
If this is an Amendment authorized by a DEBTOR, check here ☐ and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME
Paul Gauguin Shipping Limited

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. OPTIONAL FILER REFERENCE DATA:
Massachusetts Secretary of the Commonwealth

UCC FINANCING STATEMENT AMENDMENT ADDITIONAL PARTY

FOLLOW INSTRUCTIONS

19. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form
202183907110

20. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form

20a. ORGANIZATION'S NAME
Paul Gauguin Shipping Limited

OR

20b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

Print Reset

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

21. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (21a or 21b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

21a. ORGANIZATION'S NAME

OR

21b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
21c. MAILING ADDRESS	CITY	STATE / POSTAL CODE	COUNTRY

22. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (22a or 22b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

22a. ORGANIZATION'S NAME

OR

22b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
22c. MAILING ADDRESS	CITY	STATE / POSTAL CODE	COUNTRY

23. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (23a or 23b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

23a. ORGANIZATION'S NAME

OR

23b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
23c. MAILING ADDRESS	CITY	STATE / POSTAL CODE	COUNTRY

24. ☐ ADDITIONAL SECURED PARTY'S NAME or ☑ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (24a or 24b)

24a. ORGANIZATION'S NAME

OR

24b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
Lewis	**Henry**	**R.**	
24c. MAILING ADDRESS	CITY	STATE / POSTAL CODE	COUNTRY
2500 S Ocean Boulevard, Apt. 3	**Boca Raton**	**FL** / **33432-8423**	**USA**

25. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (25a or 25b)

25a. ORGANIZATION'S NAME

OR

25b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
25c. MAILING ADDRESS	CITY	STATE / POSTAL CODE	COUNTRY

26. MISCELLANEOUS:

EXHIBIT F

UCC-1 Form

FILER INFORMATION

Full name: **GISELLE PAQUETTE**

Email Contact at Filer: **GPAQUETTE@BERNSTEINSHUR.COM**

SEND ACKNOWLEDGEMENT TO

Contact name: **BERNSTEIN SHUR**

Mailing Address: **100 MIDDLE STREET, PO BOX 9729**

City, State Zip Country: **PORTLAND, ME 04104-5029 USA**

DEBTOR INFORMATION

Org. Name: **VANTAGE TRAVEL SERVICE, INC.**

Mailing Address: **90 CANAL STREET**

City, State Zip Country: **BOSTON, MA 02114 USA**

SECURED PARTY INFORMATION

Org. Name: **PGSL C/O HENRY R. LEWIS**

Mailing Address: **2500 S OCEAN BOULEVARD, APT. 3**

City, State Zip Country: **BOCA RATON, FL 33432-8423 USA**

TRANSACTION TYPE: STANDARD

CUSTOMER REFERENCE: MASSACHUSETTS SECRETARY OF THE COMMONWEALTH

COLLATERAL

SEE SCHEDULE A ATTACHED HERETO AND MADE A PART HEREOF.

SCHEDULE A TO UCC-1 FINANCING STATEMENT

Secured Party: PGSL

Debtor: Vantage Travel Service, Inc.

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EXHIBIT G

Case 23-11060 Doc 410-7 Filed 09/29/23 Entered 09/29/23 01:39:22 Desc Exhibit G Page 2 of 2

HL-128305

Certificate of Incorporation on Change of Name

I DO HEREBY CERTIFY that

PAUL GAUGUIN SHIPPING LIMITED

having by Special resolution dated 1st day of September Two Thousand Nine changed its name, is now incorporated under name of

PGSL

Given under my hand and Seal at George Town in the Island of Grand Cayman this 3rd day of December Two Thousand Nine

REGISTRAR OF COMPANIES
EXEMPTED
CAYMAN ISLANDS

An Authorised Officer,
Registry of Companies,
Cayman Islands.