



Registration of a Charge

Company Name: **SWANAGE RAILWAY COMPANY LIMITED**

Company Number: **01412568**



Received for filing in Electronic Format on the: **03/01/2024**

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Details of Charge

Date of creation: **21/12/2023**

Charge code: **0141 2568 0002**

Persons entitled: **THE SWANAGE RAILWAY TRUST**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **NEIL COOK**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1412568

Charge code: 0141 2568 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st December 2023 and created by SWANAGE RAILWAY COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd January 2024 .

Given at Companies House, Cardiff on 4th January 2024

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED 21st December 2023

SWANAGE RAILWAY COMPANY LIMITED (1)

and

THE SWANAGE RAILWAY TRUST (2)

DEBENTURE

ELLIS
JONES
SOLICITORS

Ellis Jones Solicitors LLP

302 Charminster Road

Bournemouth

BH8 9RU

DX 122752 Bournemouth 10

Tel: 01202 057750

Ref: NC/SWA070-021

This deed is dated 21st December 2023

Parties

- (1) Swanage Railway Company Limited incorporated and registered in England and Wales with company number 01412568 whose registered office is at The Station House, Swanage, Dorset, BH19 1HB (**Company**)
- (2) The Swanage Railway Trust incorporated and registered in England and Wales with company number 04115126 whose registered office is at The Station House, Swanage, Dorset, BH19 1HB (**Lender**)

BACKGROUND

- (A) The Lender has agreed, pursuant to the Loan Agreement, to provide the Company with an intercompany loan account on a secured basis.
- (B) Under this deed, the Company provides security to the Lender for the intercompany loan account made available under the Loan Agreement.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

The following definitions apply in this deed:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Designated Account: any account of the Company nominated by the Lender as a designated account for the purposes of this deed.

Environmental Law: all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

Environmental Licence: any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

Financial Collateral: has the meaning given to that expression in the Financial Collateral Regulations.

Financial Collateral Regulations: the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).

Insurance Policy: each contract and policy of insurance effected or maintained by the Company from time to time in respect of its assets or business.

Loan Agreement : the secured revolving loan agreement made between the Company and the Lender on or about the date of this deed for the provision of the intercompany loan account secured by this deed.

LPA 1925: the Law of Property Act 1925.

Permitted Security: means

- a) the security interests constituted by or arising under this Deed; and
- b) the debenture over the Company's asset holding by Barclays Bank Plc.

Receiver: means any receiver appointed under this deed or pursuant to any applicable law, whether alone or jointly, and includes a receiver and/or manager and administrative receiver.

Secured Assets: all the assets, property and undertaking of the Company which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them) and are described in the Schedule to this deed.

Secured Liabilities: all present and future obligations and liabilities of the Company to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Loan Agreement or this deed, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

Security: any charge (whether fixed or floating, legal or equitable), assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Security Period: the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

1.2 Interpretation

In this deed:

- (a) Clause and paragraph headings shall not affect the interpretation of this deed;
- (b) a person includes an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;

- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to writing or written includes fax and email;
- (i) a reference to this deed (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (j) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (k) a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description; and
- (l) a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

2. Covenant to pay

The Company shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

3. Grant of security

3.1 Fixed charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Lender by way of a fixed charge on the Secured Assets.

3.2 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- (a) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
- (b) the benefit of all other agreements, instruments and rights relating to the Secured Assets.

3.3 Floating charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Lender, by way of floating charge, all its undertaking, property, assets and rights not otherwise effectively charged or assigned under clause 3.1 to 3.2 inclusive.

3.4 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3.

3.5 Automatic crystallisation of floating charge

The floating charge created by clause 3.3 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Company:
 - (a) creates, or attempts to create, without the prior written consent of the Lender, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Loan Agreement); or
 - (b) disposes, or attempts to dispose, of all or any part of the Secured Assets except in the ordinary course of carrying on its business as a going concern;
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets;
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Company; or
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed

3.6 Crystallisation of floating charge by notice

Except as provided in clause 3.7, the Lender may, in its sole discretion, at any time and by written notice to the Company, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice.

3.7 Part A1 moratorium

- (a) Subject to paragraph (b) below, the floating charge created by clause 3.3 may not be converted into a fixed charge solely by reason of obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986.
- (b) Paragraph (a) above does not apply to any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

3.8 Assets acquired after any floating charge has crystallised

Any asset acquired by the Company after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Company in writing) be charged to the Lender by way of first fixed charge.

4. Liability of the Company

4.1 Liability not discharged

The Company's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Company.

5. Representations and warranties

5.1 Times for making representations and warranties

The Company makes the representations and warranties set out in this clause 5 to the Lender on the date of this deed and the representations and warranties contained in this deed are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

5.2 Ownership of Secured Assets

The Company is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

5.3 No Security

The Secured Assets are free from any Security other than Permitted Security and the Security created by this deed.

5.4 No adverse claims

The Company has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

5.5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

5.6 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

5.7 No interference in enjoyment

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

5.8 No overriding interests

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Charged Property.

5.9 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Company or otherwise.

5.10 No prohibitions or breaches

There is no prohibition on assignment in any Insurance Policy or Relevant Agreement and the entry into this deed by the Company does not, and will not, constitute a breach of any Insurance Policy, Relevant Agreement or any other policy, agreement, document, instrument or obligation binding on the Company or its assets.

5.11 Environmental compliance

The Company has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

5.12 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Company, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

6. General covenants

6.1 Negative pledge and disposal restrictions

The Company shall not at any time, except with the prior written consent of the Lender:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security;
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

6.2 Preservation of Secured Assets

- (a) The Company shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.
- (b) The Company undertakes that, during the period that the Secured Assets are charged to the Lender, it shall maintain each of the Secured Assets in a condition no worse than their condition at the date of this deed.

6.3 Compliance with laws and regulations

- (a) The Company shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.
- (b) The Company shall:
 - (a) comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
 - (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and

- (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

6.4 Notice of misrepresentation and breaches

The Company shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

6.5 Insurance

- (a) The Company shall insure and keep insured the Secured Assets against:
 - (a) loss or damage by fire or terrorist acts, including any third party liability arising from such acts;
 - (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Company; and
 - (c) any other risk, perils and contingencies as the Lender may reasonably require.
- (b) Any such insurance must:
 - (a) be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender;
 - (b) include property owners' public liability and third party liability insurance;
 - (c) be for not less than the replacement value of the relevant Secured Assets.
- (c) The Company shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to any insurance as is required by clause 6.5(a).

6.6 Insurance premiums

The Company shall promptly pay all premiums in respect of each insurance policy as is required by clause 6.5(a) and do all other things necessary to keep that policy in full force and effect.

6.7 No invalidation of insurance

The Company shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy as is required by clause 6.5(a).

6.8 Proceeds from insurance policies

All monies payable under any insurance policy maintained by the Company in accordance with clause 6.5(a) at any time (whether or not the security constituted by this deed has become enforceable) shall:

- (a) be paid immediately into a Designated Account; and
- (b) if they are not paid into a Designated Account, be held, pending such payment, by the Company as trustee of the same for the benefit of the Lender.

6.9 Information

The Company shall:

- (a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- (c) promptly notify the Lender in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Company's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

7. Powers of the Lender

7.1 Power to remedy

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Company of any of its obligations contained in this deed.
- (b) The Company irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- (c) The Company shall reimburse the Lender, on a full indemnity basis, for any monies the Lender expends in remedying a breach by the Company of its obligations contained in this deed, and such monies shall carry interest in accordance with clause 13.1.

7.2 Exercise of rights

- (a) The rights of the Lender under clause 8.1 are without prejudice to any other rights of the Lender under this deed.
- (b) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

7.3 Lender has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

8. Enforcement

8.1 Security becomes enforceable on Event of Default

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

8.2 Discretion

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

9. Enforcement of security

9.1 Right of appropriation

(a) To the extent that:

- (a) the Secured Assets constitute Financial Collateral; and
- (b) this deed and the obligations of the Company under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine.

(b) The value of any Secured Assets appropriated in accordance with this clause shall be:

- (a) in the case of cash, the amount standing to the credit of each of the Company's accounts with any bank, financial institution or other person, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
- (b) in the case of Investments, the market price of those Investments at the time the right of appropriation is exercised determined by the Lender by reference to a recognised market index or by any other method that the Lender may select (including independent valuation).

- (c) The Company agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

10. Receiver

10.1 Appointment

- (a) At any time after the security constituted by this deed has become enforceable, or at the request of the Company, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.
- (b) The Lender may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

10.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

10.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

10.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986.

10.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

10.6 Agent of the Company

Any Receiver appointed by the Lender under this deed shall be the agent of the Company and the Company shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Company goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

11. Powers of Receiver

A Receiver shall have and be entitled to exercise in relation to the Company all the powers set out in Schedule I to the Insolvency Act 1986.

12. Costs and indemnity

12.1 Costs

The Company shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender or any Receiver in connection with:

- (a) the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's or a Receiver's rights under this deed;
- (c) any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed;
- (d) any release of any security constituted by this deed; or
- (e) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment) at the rate and in the manner specified in the Loan Agreement.

12.2 Indemnity

The Company shall, promptly demand, indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Company in performing any of its obligations under this deed.

13. Further assurance

13.1 Further assurance

The Company shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security created or intended to be created by this deed;
- (b) facilitating the realisation of any Secured Asset; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset.

14. Power of attorney

By way of security, the Company irrevocably appoints the Lender and every Receiver separately to be the attorney of the Company and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Company is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender or any Receiver.

15. Release

Subject to clause 22.3, at the end of the Security Period, the Lender shall, at the request and cost of the Company, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this deed; and
- (b) reassign the Secured Assets to the Company.

16. Assignment and transfer

16.1 Assignment by Lender

- (a) At any time, without the consent of the Company, the Lender may assign any of its rights or transfer any of its rights and obligations under this deed.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Company, the Secured Assets and this deed that the Lender considers appropriate.

16.2 Assignment by Company

The Company may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

17. Set-off

17.1 Lender's right of set-off

The Lender may at any time set off any liability of the Company to the Lender against any liability of the Lender to the Company, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 18 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

17.2 Exclusion of Company's right of set-off

All payments made by the Company to the Lender under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

18. Amendments, waivers and consents

18.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

18.2 Waivers and consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any subsequent right or remedy. It only applies to the circumstances in relation to which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure by the Lender to exercise, or delay by it in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

18.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

19. Partial invalidity

If, at any time, any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

20. Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

21. Third party rights

A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

Notwithstanding any term of this deed, the consent of any person who is not a party to this deed is not required to rescind or vary this deed at any time.

22. Further provisions

22.1 Independent security

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

22.2 Continuing security

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

22.3 Discharge conditional

Any release, discharge or settlement between the Company and the Lender shall be conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced, set aside or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or for any other reason. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- (b) the Lender may recover the value or amount of such security or payment from the Company subsequently as if the release, discharge or settlement had not occurred.

22.4 Certificates

Any certification or determination by the Lender of any rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

23. Notices

All notices under this deed shall be in writing and be deemed duly given if signed by the Party giving the notice or by a duly authorised officer thereof, as appropriate.

Notices shall be deemed to have been duly given:

- (a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
- (b) when sent, if transmitted by facsimile or email and a successful transmission report or return receipt is generated; or
- (c) on the fifth (5) Business Day following mailing, if mailed by national ordinary mail, postage prepaid; or
- (d) on the tenth (10) Business Day following mailing, if mailed by airmail, postage prepaid.
- (e) All notices under this Agreement shall be addressed to the most recent address, facsimile number, or email address notified to the other Party.

24. Governing law and jurisdiction

24.1 Governing law

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

24.2 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

Schedule 1 – Secured Assets

British Railways Class 08 Diesel Shunter 08436, BRML Eastleigh Works black livery.
British Railways Mk1 Brake Standard Open Buffet (BSOB) S9015, BR Green livery.
British Railways Mk1 Brake Standard Corridor (BSK) S35464, BR Green livery.
British Railways Mk1 Tourist Standard Open (TSO) S4899, BR Green livery.
British Railways Mk1 Tourist Standard Open (TSO) S4981, BR Green livery.
British Railways Mk1 Tourist Standard Open (TSO) S4945, BR Green livery.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as deed by Swanage Railway Company Limited acting by
Kevin Maxwell Potts, a director, in the presence of:



Signature of Witness

CHRISTOPHER DONALD BENNETT

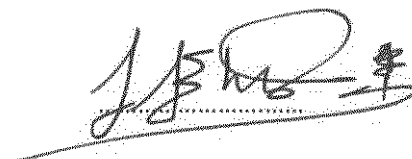
Name of Witness

152 VICTORIA AVENUE

Address of Witness

SWANAGE DORSET
BH19 1AZ

Executed as deed by The Swanage Railway Trust acting by Frank
Edmund Roberts a director, in the presence of:



Signature of Witness

CHRISTOPHER BENNETT

Name of Witness

152 VICTORIA AVENUE

Address of Witness SWANAGE DORSET
BH9 1AZ