



Registration of a Charge

Company name: **Red Funnel Ferries Limited**

Company number: **04281782**



X6BJOC6I

Received for Electronic Filing: **27/07/2017**

Details of Charge

Date of creation: **20/07/2017**

Charge code: **0428 1782 0005**

Persons entitled: **RBC EUROPE LIMITED (IN ITS CAPACITY AS SECURITY AGENT FOR THE SECURED PARTIES)**

Brief description: **ALL LAND (EXCEPT FOR RESTRICTED LAND) AS LISTED IN SCHEDULE 1 TOGETHER WITH ALL BUILDINGS FIXTURES AND FIXED PLANT AND MACHINERY AT ANY TIME THEREON, INTELLECTUAL PROPERTY (EXCEPT FOR ANY RESTRICTED IP), AND THE SPECIFIED INTELLECTUAL PROPERTY OWNED BY THE COMPANY, IN EACH CASE AS SPECIFIED (AND DEFINED) IN THE DEED OF ACCESSION AND CHARGE REGISTERED BY THIS FORM MR01.**

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 SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE COMPOSITE ORIGINAL INSTRUMENT.**

Certified by: **ED WALLIS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4281782

Charge code: 0428 1782 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th July 2017 and created by Red Funnel Ferries Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2017 .

Given at Companies House, Cardiff on 31st July 2017

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

Deed of Accession and Charge

THIS DEED OF ACCESSION AND CHARGE is made on 20 July 2017

BETWEEN:

- (1) **Red Funnel Ferries Limited** (registered in England and Wales under number 04281782) (the "**New Chargor**");
- (2) **Hawk Acquisition Limited** (registered in England and Wales under number 10823670) (the "**Company**"); and
- (3) **RBC Europe Limited** (the "**Security Agent**").

WHEREAS:

- (A) This Deed is supplemental to a Debenture (the "**Principal Deed**") dated 5 July 2017 between (1) the Company as chargor and (2) the Security Agent as agent and trustee for the Secured Parties named in the Principal Deed (the "**Secured Parties**").
- (B) The New Chargor has agreed, on the terms contained in the Principal Deed, to charge in favour of the Security Agent (acting as security agent and trustee for the Secured Parties), all of its property, undertaking and assets to secure the Secured Obligations, and to accede to the Principal Deed.
- (C) This is a Deed of Accession and Charge for the purposes of the Principal Deed.

THIS DEED WITNESSES as follows:**1. DEFINITIONS AND INTERPRETATION**

- 1.1 **Incorporation:** Words or expressions defined and/or incorporated in the Principal Deed and principles of interpretation provided for in the Principal Deed shall, unless the context otherwise requires or unless otherwise re-defined below, have the same meaning and shall apply (as the case may be) in this Deed.

1.2 Additional Definitions: In this Deed:

"**Intellectual Property**" means any material patents (including supplementary protection certificates), know-how, utility models, registered and unregistered trade marks (including service marks), rights in passing off, copyright, database rights, registered and unregistered rights in designs (including in relation to semiconductor products) anywhere in the world and, in each case, any extensions and renewals of, and any applications for, such rights.

"**Land**" means freehold and leasehold, and any other interest or estate in, land and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

"**Relevant Contracts**" means each of the agreements described in Schedule 2 (*Assigned Documents*).

"**Restricted IP**" means any Intellectual Property owned by or licensed to the New Chargor which, in each case, precludes either absolutely or conditionally the New Chargor from creating a charge over its interest in that Intellectual Property and in respect of which consent has not yet been obtained pursuant to Clause 3.4(b) (*Third Party Consents*) of the Principal Deed. *Save for material redacted pursuant to s859G of*

LIB01/WALLISED/5717104.3

a true and complete copy of the composite original seen by me

Names: ED WALLIS

Title: Solicitor

Date: 25/7/17

Hogan Lovells International LLP (Ref:)
Atlantic House, Holborn Viaduct, London, EC1A 2FQ

Hogan Lovells

"Restricted Land" means any leasehold property held by the New Chargor under a lease which precludes either absolutely or conditionally the New Chargor from creating a mortgage or charge over its leasehold interest in that property and in respect of which consent has not yet been obtained pursuant to Clause 3.4(a) (*Third Party Consents*) of the Principal Deed.

"Specified Intellectual Property" means the Intellectual Property listed in Schedule 3 (*Specified Intellectual Property*).

2. ACCESSION BY THE NEW CHARGOR TO THE PRINCIPAL DEED

- 2.1 **Accession:** The New Chargor agrees to be bound by all the terms of the Principal Deed and to perform all obligations of a Chargor under, and in accordance with, the Principal Deed with effect from the date of this Deed, as if it had been an original party to the Principal Deed as a Chargor.
- 2.2 **Covenant to pay:** The New Chargor (as primary obligor and not merely as surety) covenants with the Security Agent (as trustee for the Secured Parties) that it will, on the Security Agent's written demand, pay or discharge the Secured Obligations when due at the times and in the manner provided in the relevant Secured Debt Documents.
- 2.3 **Proviso:** The covenants contained in this Clause and the Security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or Security to be unlawful or prohibited by any applicable law.
- 2.4 **Company's agreement to the accession:** The Company (on behalf of itself and the other members of the Group which are parties to the Principal Deed) hereby agrees to the New Chargor's accession.

3. SECURITY ASSIGNMENTS

The New Chargor, with full title guarantee, as Security for the payment or discharge of all Secured Obligations, assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) to the Security Agent (as trustee for the Secured Parties):

- (a) all of its rights, title and interest in respect of the Assigned Documents;
- (b) the benefit of all of its Document Claims;
- (c) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies;
- (d) all its rights, title and interest from time to time in respect of the Hedging Agreements;
- (e) all its right, title and interest in or to the Blocked Accounts as any such account may be renumbered, redesignated or sub-divided from time to time, the Balances and all its rights, title, benefit and interest whatsoever, present and future, in and to the Balances, provided that the New Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Blocked Account, at all times in accordance with the Facilities Agreement and any relevant Permitted Refinancing Debt Document;
- (f) all Receivables, book and other debts now or in the future owing to the New Chargor and all its rights and claims against third parties, present and future, capable of being satisfied by the payment of money (except rights and claims

effectively charged under Clause 4 (*Fixed Security*) or effectively assigned under Clauses 3(a) to 3(e) inclusive (*Security Assignments*); and

- (g) all its rights, title and interest from time to time in respect of any Intra-Group Liabilities.

4. FIXED SECURITY

The New Chargor, with full title guarantee, as Security for the payment or discharge of all Secured Obligations, charges in favour of the Security Agent (as trustee for the Secured Parties):

- (a) with the exception of any Restricted Land, by way of legal mortgage, all Land in England and Wales now vested in it and registered at the Land Registry or which will be subject to first registration at the Land Registry upon the execution and delivery of this Deed, in each case as described in Schedule 1 (*Registered Land to be Mortgaged*);
- (b) by way of fixed charge:
 - (i) with the exception of any Restricted Land, all other Land which is now, or in the future becomes, its property;
 - (ii) all Land which has ceased to fall within the definition of Restricted Land by virtue of receipt of the relevant landlord's consent to charge that Land, but only with effect from the date on which that consent is obtained;
 - (iii) all other interests and rights in or relating to Land or in the proceeds of sale of Land now or in the future belonging to it;
 - (iv) all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this Clause 4 and all its rights and interests under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached;
 - (v) all moneys at any time standing to the credit of the Blocked Accounts;
 - (vi) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
 - (vii) all Specified Investments which are now its property, including all proceeds of sale derived from them;
 - (viii) all Specified Investments in which the New Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;
 - (ix) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
 - (x) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
 - (xi) all Insurance Policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future

deposited by it with the Security Agent, together with all its rights and interests in such Insurance Policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in the Principal Deed and/or this Deed;

- (xii) all its goodwill and uncalled capital for the time being;
- (xiii) all Specified Intellectual Property belonging to it;
- (xiv) with the exception of any Restricted IP, all other Intellectual Property presently belonging to it, including any Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others;
- (xv) with the exception of any Restricted IP, all Intellectual Property that may be acquired by or belong to it in the future, including any such Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others;
- (xvi) with the exception of any Restricted IP, the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world;
- (xvii) all Intellectual Property (including any Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others, and the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world) which by virtue of obtaining third party consent to charge such Intellectual Property has ceased to fall within the definition of Restricted IP, but only with effect from the date on which that consent is obtained;
- (xviii) [Deliberately omitted]
- (xix) all its rights and causes of action in respect of infringement(s) of the rights referred to in sub-paragraphs (b)(xiii) to (b)(xvii) inclusive of this Clause;
- (xx) all trade debts now or in the future owing to it;
- (xxi) all other debts now or in the future owing to it;
- (xxii) the benefit of all instruments, guarantees, charges, pledges and other Security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3 (*Security Assignments*);
- (xxiii) the benefit of all negotiable instruments, guarantees, bonds, debentures, legal or equitable charges and all other Security, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all other rights and remedies now or in the future available to the New Chargor as Security for any Receivable or for the performance by any third party of any obligation now or in the future owed to it;
- (xxiv) any beneficial interest, claim or entitlement it has to any pension fund now or in the future;

(xxv) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Deed and the provisions of the Principal Deed; and

(xxvi) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them.

5. CREATION OF FLOATING CHARGE

5.1 The New Chargor, with full title guarantee, charges to the Security Agent (as trustee for the Secured Parties) as security for the payment or discharge of all Secured Obligations, by way of floating charge all its Assets, except to the extent that such Assets are for the time being effectively assigned by way of Security by virtue of Clause 3 (*Security Assignments*), charged by way of the legal mortgage contained Clause 4(a) or charged by any fixed charge contained in Clause 4(b) (*Fixed security*), including any Assets comprised within a charge which is reconverted under Clause ~~Error-Reference source not found~~ 4.4 (*Reconversion*) of the Principal Deed. 4.4

5.2 The parties agree (without limitation to the general nature of the New Chargor's accession to the Principal Deed contained in Clause 2) that the crystallisation provisions contained in Clause 4 of the Principal Deed shall equally apply to the floating charge contained in this Deed as if set out in full in this Deed. 4.4

6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS

The New Chargor shall not:

- (a) create or permit to subsist any Security over any of its Assets except Permitted Security; or
- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or otherwise dispose or part with possession or ownership of the whole or any part of them, or purport or agree to do so,

except with consent of the Original Facility Agent or the Security Agent or to the extent permitted or not otherwise prohibited by the Facilities Agreement and each Permitted Refinancing Debt Document.

7. RIGHT OF APPROPRIATION

7.1 **Financial Collateral Arrangement:** The Parties acknowledge and intend that the charges over the New Chargor's Financial Collateral provided under or pursuant to this Deed will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.

7.2 **Right of Appropriation:** The Security Agent may, on or at any time after the Security constituted by this Deed becomes enforceable in accordance with the terms of the Principal Deed, by notice in writing to the New Chargor appropriate with immediate effect all or any of its Financial Collateral charged by this Deed which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral

Regulations) and apply it in or towards the discharge of the Secured Obligations, whether such Assets are held by the Security Agent or otherwise.

7.3 **Value:** The value of any Financial Collateral appropriated under Clause 7.2 shall be:

- (a) in the case of cash, its face value at the time of appropriation; and
 - (i) if it is listed or traded on a recognised exchange, its value will be taken as the value at which it could have been sold on the exchange on the date of appropriation; or
 - (ii) in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

7.4 **Surplus or Shortfall:** The Security Agent will account to the New Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Obligations and the New Chargor shall remain liable to the Security Agent for any amount by which the value of the appropriated Assets is less than the Secured Obligations.

7.5 **Confirmation:** The New Chargor agrees that the method of valuing Financial Collateral under Clause 7.3 is commercially reasonable.

8. APPLICATION TO THE LAND REGISTRY

8.1 **Application to the Land Registry:** The New Chargor:

- (a) in relation to each register of title of any present and future Land of the New Chargor which is charged to the Security Agent under this Deed or pursuant to the further assurance undertakings in the Facilities Agreement or any Permitted Refinancing Debt Document, consents to the Security Agent (or its solicitors) at any time submitting to the Land Registry any and all of the following:
 - (i) a form AP1 (application to change the register) in respect of the Security created by this Deed;
 - (ii) a form AN1 (application to enter an agreed notice) in respect of the Security created by this Deed;
 - (iii) a form RX1 (application to register a restriction) in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register or their conveyancer."; and
 - (iv) a form CH2 (application to enter an obligation to make further advances); and
- (b) covenants to submit a priority search with the Land Registry; and
- (c) covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 4 (*Fixed security*) at its own expense, as soon as reasonably practicable following its execution of this Deed.

9. **POWER OF ATTORNEY**

9.1 **Appointment of attorney:** The New Chargor, by way of security and to more fully secure the performance of its obligations under this Deed, hereby irrevocably appoints the Security Agent and separately any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a Receiver or administrator has been appointed) to:

- (a) do anything which the New Chargor is obliged to do (but that neither it nor the Company has done within 10 Business Days of being notified by the Security Agent of such failure and being requested to comply) in accordance with this Deed, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
- (b) on and from the date this Security becomes enforceable pursuant to Clause 15 (*When Security becomes enforceable*) of the Principal Deed enable the Security Agent or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Deed or by statute in relation to this Deed or the Assets charged, or purported to be charged, by it.

9.2 **Ratification:** The New Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

10. **NOTICES**

All notices or demands to be given or made pursuant to this Deed shall be given or made in the manner set out in Clause 32 (*Notices*) of the Principal Deed. The New Chargor's address for service is set out in Schedule 4 (*Notice Details*).

11. **COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures were on a single copy of this Deed.

12. **GOVERNING LAW**

This Deed and all non-contractual obligations arising out of or in connection with this Deed shall be governed by English law.

13. **ENFORCEMENT**

13.1 **Jurisdiction:**

- (a) The courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 13.1 is for the benefit of the Secured Parties only. As a result, to the extent allowed by law:

- (i) no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction; and
- (ii) the Secured Parties may take concurrent proceedings in any number of jurisdictions.

14. FINANCE DOCUMENT

This Deed is a Finance Document for the purposes of the Facilities Agreement.

THIS DEED OF ACCESSION AND CHARGE has been executed by the New Chargor and the Company as a deed and signed by the Security Agent and it has been delivered and shall take effect on the date stated at the beginning of this document.

Schedule 1 to Deed of Accession and Charge

Registered land to be mortgaged

Name of Chargor/Registered Proprietor	Description of Property	Title Number

Unregistered land subject to first registration upon the execution of this Deed

None as at the date of this Deed.

Schedule 2 to Deed of Accession and Charge

Relevant Contracts

None as at the date of this Deed.

Schedule 3 to Deed of Accession and Charge
Specified Intellectual Property

None as at the date of this Deed.

Schedule 4 to Deed of Accession and Charge

Notice Details

Address: 12 Bugle Street, Southampton, Hampshire SO14 2JY

Email: pwinter@redfunnel.co.uk

Attention: Paul Winter

Execution page to Deed of Accession

THE NEW CHARGOR

Executed as a)
Deed by Red Funnel Ferries Limited)
(pursuant to a resolution of its Board)
of Directors) acting by:) Director 

in the presence of:

Signature of witness: 

Name of witness:

Suleyman Wellings-Longmore

Address of witness:

ALLEN & OVERY LLP
ONE BISHOPS SQUARE
LONDON E1 6AD
www.allenoverly.com

THE COMPANY

Executed as a)
Deed by Hawk Acquisition Limited)
(pursuant to a resolution of its Board)
of Directors) acting by:) Director 

in the presence of:

Signature of witness: 

Name of witness:

Suleyman Wellings-Longmore

Address of witness:

ALLEN & OVERY LLP
ONE BISHOPS SQUARE
LONDON E1 6AD
www.allenoverly.com

THE SECURITY AGENT

Signed by
for and on behalf of
RBC Europe Limited



JOHNSON TSE
AUTHORISED SIGNATORY



Authorised Signatory