

MR01

Particulars of a charge

VOUCHER-097415/13



A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there
is an instrument Use form MR08

SATURDAY



A14 *A21V2G6Q* 12/10/2013 #71
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

You **must** enclose a certified copy of the instrument with this form This will be scanned and placed on the public record

1 Company details

Company number 0 2 9 8 5 1 7 6
Company name in full GREAT SCOTTISH & WESTERN RAILWAY HOLDINGS LIMITED

For official use
→ **Filing in this form**
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d1 d0 m1 m0 y2 y0 y1 y3

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name ALLIED IRISH BANKS, P L.C

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4

Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

NONE AS AT THE DATE OF THIS CHARGE

5

Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☐ Yes

☒ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

MR01

Particulars of a charge

8

Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X

CMS Cameron McKenna LLP

X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name

Company name

CMS Cameron McKenna LLP

Address Mitre House

160 Aldersgate Street

London

Post town

County/Region

Postcode

E C 1 A 4 D D

Country

DX DX 135316 BARBICAN 2

Telephone 020 7367 3976



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☒ The company name and number match the information held on the public Register
- ☒ You have included a certified copy of the instrument with this form
- ☒ You have entered the date on which the charge was created
- ☒ You have shown the names of persons entitled to the charge
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☒ You have given a description in Section 4, if appropriate
- ☒ You have signed the form
- ☒ You have enclosed the correct fee
- ☒ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2985176

Charge code: 0298 5176 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th October 2013 and created by GREAT SCOTTISH AND WESTERN RAILWAY HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th October 2013

DT

Given at Companies House, Cardiff on 17th October 2013



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

FLOATING CHARGE

by

GREAT SCOTTISH & WESTERN RAILWAY HOLDINGS LIMITED

and

THE GREAT SCOTTISH & WESTERN RAILWAY COMPANY LIMITED

In favour of

**ALLIED IRISH BANKS, P.L.C.
as Security Trustee**

CERTIFIED TO BE A TRUE AND
COMPLETE COPY OF THE ORIGINAL

CMS Cameron McKenna LLP.

DATE *10/10/2013*...

CMS Cameron McKenna LLP
Mitre House, 160 Aldersgate Street
London EC1A 4DD

IMPORTANT NOTICE: We recommend that you consult your solicitor or other independent legal advisers before executing this document.

FLOATING CHARGE

This **FLOATING CHARGE** is made by **GREAT SCOTTISH & WESTERN RAILWAY HOLDINGS LIMITED** (Company Number 02985176) and **THE GREAT SCOTTISH & WESTERN RAILWAY COMPANY LIMITED** (Company Number 05201319), having their registered office at 1st Floor Shackleton House, 4 Battle Bridge Lane, London SE1 2HP (together the "Chargors" and each a "Chargor") in favour of **ALLIED IRISH BANKS, P.L.C.** as security trustee for the Finance Parties (the "Security Trustee").

Definitions are given in Clause 14.

1. Payment Obligation

Each Chargor covenants with the Security Trustee that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Finance Documents or, in the absence of any such express terms, on demand

2. Charging Provision

2.1. Each Chargor grants a floating charge over their Assets to the Security Trustee as a continuing security for the payment or discharge of the Secured Liabilities.

2.2. Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Charge

3. Negative Pledge

Each Chargor agrees that it shall be prohibited from granting or creating subsequent to the date of this Charge any fixed security or any other floating charge over any of their Assets or any part or parts of them, other than in favour of the Security Trustee or as may arise by operation of law.

4. Protection of Security

4.1. Each Chargor agrees that this Charge is and shall be in addition and without prejudice to any other security or rights which the Security Trustee holds or may hold in respect of all or any of the Secured Liabilities

4.2. This Charge will be a continuing security for the Secured Liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities or any other matter or thing whatsoever.

4.3. The obligations of each Chargor under this Charge will not be affected by any act, omission, circumstance, matter or thing which but for this provision might operate to release or otherwise exonerate any Chargor from any of their obligations hereunder in whole or in part, including (without limitation):-

4.3.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Security Trustee may have now or in the future from or against any Chargor or any other person in respect of the Secured Liabilities;

4.3.2. any act or omission by the Security Trustee or any other person in taking up, perfecting or enforcing any security or guarantee from or

against any Chargor or any other person or the invalidity or unenforceability of any such security or guarantee;

- 4.3.3. any amendment, variation, restatement or supplement of or to, or novation, transfer or termination (in whole or in part) of, any document relating to the Secured Liabilities or any exercise by any Finance Party (in their absolute discretion) of their right to refuse, grant, continue, vary, review, determine or increase any credit or facilities to any Obligor or any other person,
 - 4.3.4. any grant of time, indulgence, waiver or concession to any Chargor or any other person;
 - 4.3.5. any arrangement or compromise entered into between the Security Trustee and any Chargor or any other person;
 - 4.3.6. the administration, insolvency, bankruptcy, sequestration, liquidation, winding-up, receivership, dissolution, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name and style of, any Chargor or any other person;
 - 4.3.7. the invalidity, illegality, unenforceability, irregularity or frustration of the Secured Liabilities or any of the obligations of any Chargor or any other person;
 - 4.3.8. any postponement, discharge, reduction, non-provability, inability to claim, or other similar circumstance affecting any obligation of any other person resulting from any administration, insolvency, liquidation, receivership or dissolution proceedings or from any law, regulation or order.
- 4.4. The Security Trustee shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Charge or by law to:-
- 4.4.1. take any action or obtain judgment or decree in any court against any Chargor,
 - 4.4.2. make or file any claim to rank in a winding-up or a liquidation of or other proceedings relating to any Chargor; or
 - 4.4.3. enforce or seek to enforce any other security taken, or exercise any right or plea available to the Security Trustee, in respect of the Secured Liabilities.
- 4.5. Any settlement or discharge between any Obligor and any Finance Party shall be conditional upon no security or payment granted or made to such Finance Party by that Obligor or any other person being avoided or reduced by virtue of any provision or enactment relating to administration, bankruptcy, insolvency or liquidation for the time being in force and accordingly (but without prejudice to any other rights of any Finance Party) any Finance Party shall be entitled to recover from any Chargor the value or amount of such security or payment from any Chargor as if such settlement or discharge had not occurred

5. Enforcement

- 5.1. This Charge shall become enforceable upon and at any time after the occurrence of any of the following events.-

- 5.1.1. If any Obligor has failed to pay all or any of the Secured Liabilities following a demand for payment by any Finance Party;
- 5.1.2. any step is taken (including, without limitation, the making of an application or the giving of any notice) by any Obligor or by any other person (other than a Finance Party) to appoint an administrator in respect of any Obligor;
- 5.1.3. any step is taken (including, without limitation, the making of an application or the giving of any notice) by any Obligor or by any other person (other than a Finance Party) to wind up or dissolve any Obligor or to appoint a liquidator (whether provisional, interim or otherwise), trustee, receiver, administrative receiver or similar officer of any Obligor or any part of their undertaking or assets;
- 5.1.4. the making of a request by any Obligor for the appointment of a Receiver or administrator;
- 5.1.5. if any Obligor breaches any of the provisions of any Finance Document and such breach is continuing

6 Appointment of Receiver or Administrator

- 6.1 At any time after this Charge has become enforceable the Security Trustee shall be and is entitled to appoint in writing any one or more persons as:
 - 6.1.1. a Receiver of all or any of the Assets; and/or
 - 6.1.2. an administrator of any Chargor,

in each case in accordance with and to the extent permitted by applicable laws.
- 6.2. Without prejudice to the foregoing provisions, if any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Security Trustee shall be entitled to appoint another person or persons as Receiver or Receivers in his place.
- 6.3. Where more than one Receiver is appointed they will have power to act separately (unless the appointment by the Security Trustee specifies to the contrary).
- 6.4 The Chargors shall be solely responsible for the acts and defaults of a Receiver appointed under this Charge and for his remuneration, costs, charges and expenses and the Security Trustee shall not have any liability or responsibility in respect of any act or default of such Receiver or of any such remuneration, costs, charges and expenses
- 6.5. Subject to section 58 of the Insolvency Act 1986, the Security Trustee may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another person as Receiver in his place.
- 6.6. The Receiver will be the agent of the Chargors (who will be solely liable for his acts, defaults and remuneration) and will have and be entitled to exercise in relation to the Chargors all the powers set out in Schedule 2 to the Insolvency Act 1986 and, in addition to such powers, the Receiver will have power:-
 - 6.6.1. to promote the formation of a subsidiary or subsidiaries of any Chargor, including, without limitation, any such subsidiary formed for

the purpose of purchasing, leasing, licensing or otherwise acquiring interest in all or any of the assets of any Chargor,

- 6.6.2. to make any arrangement or compromise which the Security Trustee or the Receiver may think fit;
 - 6.6.3. to sever any fixtures (including trade and tenants fixtures) from the property of which they form part;
 - 6.6.4. to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Assets including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by any Chargor;
 - 6.6.5. to convene an extraordinary general meeting of any Chargor;
 - 6.6.6. to exercise all powers conferred by the Insolvency Act 1986 on receivers appointed in England and Wales in respect of any of the Assets located in England and Wales; and/or
 - 6.6.7. to do all other acts and things as may be considered by the Receiver to be incidental or conducive to the above or otherwise incidental or conducive to the preservation, improvement or realisation of the Assets
- 6.7. No purchaser, security grantee or other person dealing with a Receiver shall be concerned whether the Secured Liabilities have become payable or enforceable or whether any money remains outstanding under this Charge or shall be concerned with any application of any money paid to the Receiver.

7. Application of Security Proceeds

- 7.1. Any money received under the powers conferred by this Charge will, subject to the payment or repayment of any prior claims, be paid or applied in payment or discharge of the Secured Liabilities (subject to the terms of section 60 of the Insolvency Act 1986 and other applicable laws) provided that the Receiver may retain any money in his hands for so long as he thinks fit and the Security Trustee may, without prejudice to any other rights the Security Trustee may have at any time and from time to time, place and keep for such time as the Security Trustee may think prudent any money received, recovered or realised under or by virtue of this Charge to or at a separate or suspense account to the credit either of any Chargor or as the Security Trustee thinks fit without any immediate obligation on the part of the Security Trustee to apply such money or any part of such money in or towards the payment or discharge of the Secured Liabilities.
- 7.2. Subject to Clause 7.1 above, any money received or realised by the Security Trustee from any Chargor or a Receiver under this Charge or any administrator may be applied by the Security Trustee to any item of account or liability or transaction in such order or manner as the Security Trustee may determine.

8. Costs and Expenses

The Chargers shall pay or reimburse to the Security Trustee on demand (on a full indemnity basis) all costs, charges and expenses (including legal fees) incurred or to be incurred by the Security Trustee in the creation, registration, perfection, enforcement, discharge and/or assignation of this Charge (including, without limitation, the costs of any proceedings in relation to this Charge or the Secured

Liabilities), which costs, charges and expenses shall form part of the Secured Liabilities.

9. Power of Attorney

9.1. Each Chargor irrevocably appoints the Security Trustee (whether or not a Receiver or administrator has been appointed) and also (as a separate appointment) any Receiver or Receivers, and in each case independently as the attorney and attorneys of the relevant Chargor, for the relevant Chargor and in their name and on their behalf and as their act and deed or otherwise, to execute and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required of any Chargor under this Charge or may be required or deemed proper in the exercise of any of rights or powers conferred on the Security Trustee or any Receiver hereunder or otherwise for any of the purposes of this Charge.

9.2 Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney does or purports to do under their appointment under Clause 9.1 above.

10. Indemnity

The Security Trustee, every Receiver and every attorney, manager, agent, employee or other person appointed by the Security Trustee or any such Receiver under or in connection with this Charge shall be and is hereby indemnified by the Chargors in respect of all liabilities, costs, losses and expenses incurred by it or him in the execution (or purported execution) of any of the powers, authorities or discretions vested in them or him pursuant to the terms of this Charge (or by any law or regulation) and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way in connection with or relating to all or any of the property, assets and rights hereby charged and the Security Trustee, any Receiver or any such other person may retain and pay all sums in respect of the same out of money received under the powers conferred by this Charge.

11. Notices

Any communication to be made under or in connection with this Charge shall be made in accordance with clause 35 (Notices) of the Facilities Agreement

12. Further Assurance

Each Chargor (at their own cost) will on demand by the Security Trustee execute and deliver (in such form as the Security Trustee may require) such deeds, documents, agreements and instruments and will otherwise do and concur in all such other acts and things as the Security Trustee may deem necessary for perfecting, preserving or protecting the security created (or intended to be created) by this Charge or for facilitating the realisation of the Assets charged by this Charge or the exercise of any rights of the Security Trustee under and in accordance with the terms of this Charge

13. Miscellaneous

13.1. If at any time any provision of this Charge is or becomes illegal, invalid 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 be in any way affected or impaired.

- 13.2. No failure or delay by the Security Trustee in exercising any right or remedy under this Charge shall operate as a waiver, and no single or partial exercise shall prevent further exercise, of any right or remedy.
- 13.3 The Security Trustee will be entitled to disclose to its group, subsidiaries, auditors, advisers or applicable regulatory authority or any other person that enters or proposes to enter into any assignment, transfer, securitisation or other disposition of any part of any right or obligation in relation to the Secured Liabilities confidential information concerning this Charge or any arrangement made or to be made in connection with this Charge.
- 13.4. A certificate by any duly authorised officer of any Finance Party as to the amount of the Secured Liabilities or any part of them shall, in the absence of manifest error, be conclusive and binding on any Chargor
- 13.5. The Security Trustee may at any time (without notice or consent) assign, transfer or otherwise dispose of in any manner it sees fit, all or any part of the benefit of this Charge (or all or any of its rights under this Charge) and/or any of its obligations under this Charge to any person. No Chargor may assign, transfer or otherwise dispose of any part of the benefit or burden of this Charge or all or any of their rights under this Charge without the prior written consent of the Security Trustee.
- 13.6. This Charge is a Finance Document.

14. Definitions

- 14.1. Terms defined in the Facilities Agreement shall, unless otherwise defined in this Charge, have the same meanings when used in this Charge and in addition in this Charge -

"Assets" means the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of any Chargor;

"Facilities Agreement" means the facilities agreement for up to £20,000,000 dated on or about the date of this Charge made between Orient-Express Hotels Ltd (the Chargors' ultimate parent, as borrower), the Security Trustee, the financial institutions listed in Part II of Schedule 1 therein as original lenders, Allied Irish Banks, p.l.c. as agent and the Chargors, Venice Simplon-Orient-Express Limited, Orient-Express Luxembourg Holdings Sàrl ("OE Lux"), Northern Belle Limited and Orient-Express Holdings Limited as guarantors;

"Receiver" means a receiver or administrative receiver appointed pursuant to this Charge in respect of any Chargor or over all or any of the Assets; and

"Secured Liabilities" means all present and future indebtedness, moneys, obligations and liabilities of any Obligor to the Finance Parties under the Finance Documents (including this Charge), in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Documents, together with all expenses and all interest.

14.2. References to:-

- 14.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation,

- 14.2.2. "including" shall not be construed as limiting the generality of the words preceding it;
- 14.2.3. any term or phrase defined in the Companies Act 1985 or 2006 (as amended from time to time) shall bear the same meaning in this Charge;
- 14.2.4. words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 14.2.5. this Charge and to any provisions of it or to any other document referred to in this Charge shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 14.2.6. any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity,
- 14.2.7. any persons are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 14.2.8. clause headings are for ease of reference only and are not to affect the interpretation of this Charge; and
- 14.2.9. a "fixed security" shall include the meaning given to that term in section 486 of the Companies Act 1985, section 70 of the Insolvency Act 1986 and section 47 of the Bankruptcy and Diligence etc. (Scotland) Act 2007.
- 14.3 The use of bold type shall be ignored in the construction of this Charge.

15. Consent to Registration

The Chargors consent to the registration of this Charge and of the certificate referred to in Clause 13.4 above for preservation and execution

16. **Governing Law**

This Charge shall be governed by and construed according to Scots law

IN WITNESS WHEREOF this Charge consisting of this and the eight (8) preceding pages is executed as follows:-

SUBSCRIBED for and on behalf of
GREAT SCOTTISH & WESTERN RAILWAY HOLDINGS LIMITED

by GARY FRANKLIN
as a director of the relevant Chargor in the presence of:-

[Signature]
(Director)

Witness Signature: C. V.

Witness Name: CLAIRE BACKLEBANK

Witness Address: 33 Grafton Avenue
Upminster
Essex

all together at London
on the 10th day of October 2013

SUBSCRIBED for and on behalf of
THE GREAT SCOTTISH & WESTERN RAILWAY COMPANY LIMITED

by GARY FRANKLIN
as a director of the relevant Chargor in the presence of -

[Signature]
(Director)

Witness Signature: C. V.

Witness Name: CLAIRE BACKLEBANK

Witness Address: 33 Grafton Avenue
Upminster
Essex

all together at London
on the 10th day of October 2013

SUBSCRIBED for and on behalf of
ALLIED IRISH BANKS PLC as security trustee for the Finance Parties

by *Allyson*
as attorney of the Security Trustee in the presence of:-

John McKellar
(Attorney)

Witness Signature:

GR Snowball

Witness Name:

GAVIN SNOWBALL

Witness Address:

ST HELEN'S
1 UNDERSHAFT, LONDON
EC3A 8AB

all together at London
on the 9th day of October 2013