



**Registration of a Charge**

Company name: **HOLYHEAD WORKBOATS LIMITED**

Company number: **07341750**



X69GZO7V

Received for Electronic Filing: **27/06/2017**

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**Details of Charge**

Date of creation: **20/06/2017**

Charge code: **0734 1750 0015**

Persons entitled: **ABN AMRO LEASE N.V.**

Brief description: **THE M.V. TOWYN BAY (REGISTERED IN THE UNITED KINGDOM WITH OFFICIAL NUMBER 917595) FOR MORE DETAILS OF THE OTHER SHIPS CHARGED, PLEASE REFER TO THE INSTRUMENT**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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 ORIGINAL INSTRUMENT.**





## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 7341750

Charge code: 0734 1750 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th June 2017 and created by HOLYHEAD WORKBOATS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th June 2017 .

Given at Companies House, Cardiff on 28th June 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

**Dated 20 JUN 2017 2017**

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**HOLYHEAD WORKBOATS LIMITED (1)**

**AND**

**ABN AMRO LEASE N.V. (2)**

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**DEED OF COVENANT**

**in respect of certain vessels**

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THIS DEED OF COVENANTS is made on 20 JUN 2017 2017

**BETWEEN**

- (1) **HOLYHEAD WORKBOATS LIMITED** (registered in England and Wales with number 7341750) whose registered office is at Newry Beach Yard, Holyhead, Anglesey LL65 1YB Wales (the "**Company**"); and
- (2) **ABN AMRO LEASE N.V.** (registered in The Netherlands with number 30099465) whose registered office is at Vliegend Hertlaan 77, 3526 KT, Utrecht, The Netherlands and acting for the purpose of this Deed through its UK branch office registered in England and Wales with UK establishment number BR 016670 whose registered office is at 5 Aldermanbury Square, London, EC2V 7HR, United Kingdom (its successors and assigns) (the "**Funder**").

**WHEREAS**

- (A) The Funder has entered into certain loan agreements with Ynys Môn Windfarm Vessels Limited (the **Borrower**) for the financing of the boats more particularly described in Schedule 2 (each a **Loan Agreement** and together the **Loan Agreements**).
- (B) ABN AMRO Bank N.V. (the **Bank**) has agreed to provide an overdraft facility to the Borrower pursuant to an overdraft facility agreement dated on or about the date of this Deed (the **Overdraft Facility**).
- (C) The Borrower has requested the Funder to give a guarantee to the Bank in respect of the Borrower's obligations to the Bank under the Overdraft Facility (the **Overdraft Guarantee**).
- (D) The Borrower has agreed to enter into on or about the date of this Deed a counter indemnity in favour of the Funder in respect of any and all obligations and liabilities of the Funder under or in connection with the Overdraft Guarantee (the **Counter Indemnity**).
- (E) The Company and West Coast Development Services Limited, Holyhead Towing Company Limited, Holyhead Boatyard Limited, Turbine Transfers Limited and Turbine Boat Charters Limited have agreed to provide to the Funder on or about the date of this Deed a guarantee in respect of the Borrower's obligations under the Counter Indemnity and the Loan Agreements (the **Guarantee**).
- (F) The Company and West Coast Development Services Limited, Holyhead Towing Company Limited, Holyhead Boatyard Limited, Turbine Transfers Limited and Turbine Boat Charters Limited have agreed to provide to the Funder on or about the date of this Deed a cross guarantee in respect of the each other's obligations under the Guarantee amongst other things (the **Cross Guarantee**).
- (G) The Company acknowledges the Bank may merge with or otherwise assume, or receive a transfer of, the assets and liabilities of the Funder and the Company agrees the security created by this Deed shall following any such merger, assumption or transfer extend to the Company's liabilities under the Overdraft Facility.

- (H) In consideration of the Funder agreeing to provide the Overdraft Guarantee, the Company has agreed to execute this Deed.

## **1 DEFINITIONS AND INTERPRETATION**

- 1.1 In this Deed the following terms shall have the following meanings (unless the context otherwise requires):

<b>Approved Brokers</b>	the insurance brokers appointed by the Company pursuant to the First Priority Charge or such other insurance broker to whom the Funder gives prior approval;
<b>Boat</b>	each vessel listed in the Schedule 1 to this Deed (including the hull, machinery, equipment, fuel and stores thereof whether now owned or hereafter acquired and all additions, improvements and replacements hereafter made in or to the vessel or any part thereof and/or the said machinery and equipment);
<b>Business Day</b>	a day upon which banks in Utrecht and London are open for the conduct of Sterling business generally (not being a Saturday, Sunday or bank holiday);
<b>Charged Property</b>	each Boat, all Insurances, all Requisition Compensation and any other agreements or assets mortgaged, charged or assigned to the Funder pursuant to this Deed;
<b>Classification Society</b>	the UK Maritime and Coast Guard Agency, Det Norske Veritas (DNV), or such other classification society as may be approved in writing by the Funder;
<b>Default Rate</b>	the interest rate specified in the Cross Guarantee.;
<b>Encumbrance</b>	any mortgage, pledge, lien (other than a lien on the Boat which may arise as a result of any necessary salvage and discharged within 14 days) charge, assignment by way of security, hypothecation, security interest or any other security agreement or arrangement whether relating to existing or future assets or otherwise and any agreement to create any of the foregoing other than, in any case, in favour of the Funder;
<b>Enforcement Event</b>	means an Event of Default or any demand or claim is made under the Counter Indemnity or the Guarantee or the Cross Guarantee;
<b>Environmental Approvals</b>	all approvals, consents, licences, permits, certifications, exemptions or authorisations required under applicable

	Environmental Laws;
<b>Environmental Laws</b>	all laws, regulations, conventions and agreements whatsoever relating to the pollution, contamination or protection of the environment;
<b>Event of Default</b>	has the meaning given in any Loan Agreement;
<b>Excess Risks</b>	in relation to a Boat, the proportion of claims for general average and salvage charges and under the ordinary running-down clause which is not recoverable in consequence of the value at which the Boat is assessed for the purpose of such claims exceeding their respective insured values;
<b>Finance Documents</b>	each Loan Agreement, the Counter Indemnity, the Guarantee, the Cross Guarantee and the Overdraft Facility;
<b>First Priority Charge</b>	in relation to a Boat, the first priority mortgage granted over such Boat and the related deed of covenants and more particularly described in the Schedule;
<b>Insurance Documents</b>	all slips, cover notes, contracts, policies, certificates of entry or other insurance documents in respect of the Boat as may be applicable evidencing or constituting the Insurances from time to time in effect;
<b>Insurances</b>	in relation to a Boat, all policies and contracts of insurance (which expression includes all entries in respect of such Boat in a protection and indemnity or mutual hull or war risks association) or such other arrangements by way of insurance which are from time to time taken out or entered into in respect of or in connection with such Boat and including all benefits thereof and all claims of whatsoever nature and return of premiums;
<b>Insurers</b>	the underwriters, insurance companies, mutual insurance associations or other associations or companies with or by which the Insurances are effected;
<b>Protection and Indemnity Risks</b>	the usual risks covered by a protection and indemnity association including (but not limited to) the proportion (if any) not recoverable in the case of collision under the hull and machinery policies (Institute Time Clauses (Hulls) (1.11.1995) cl 8 or any equivalent provisions), liability for third party risks and pollution liability;
<b>Receiver</b>	a receiver appointed pursuant to the provisions of this Deed or pursuant to any applicable law and such expression shall



include, without limitation, a receiver and manager;

**Requisition Compensation** all compensation payable by reason of requisition for title or other compulsory acquisition of each Boat;

**Secured Liabilities** the liabilities (actual or contingent) from time to time of the Transaction Obligors to the Funder under or pursuant to the Finance Documents together with all costs, charges and expenses incurred by the Funder in connection with the preservation or enforcement of its rights under the Finance Documents;

**Security Period** the period commencing on the date hereof and ending on the date on which the Funder is satisfied that (a) the Secured Liabilities have been fully and finally discharged; and (b) it is not under any commitment, obligation or liability (actual or contingent) under the Overdraft Guarantee or the Overdraft Facility;

**Transaction Obligor**

- (a) the Company;
- (b) the Borrower;
- (c) West Coast Development Services Limited (company number 4111846);
- (d) Holyhead Towing Company Limited (company number 871758);
- (e) Holyhead Boatyard Limited (company number 724907);
- (f) Turbine Transfers Limited (company number 6810857); and
- (g) Turbine Boat Charters Limited (company number 7166793).

**Total Loss** in relation to a Boat:

- (a) the loss or loss of use of the Boat due to destruction or damage which is beyond repair;
- (b) the rendering of the Boat for any reason whatsoever permanently unfit for normal use;
- (c) any damage to the Boat which results in an insurance settlement on the basis of an actual arranged or

constructive total loss;

(d) any compulsory acquisition of the Boat; or

(e) the theft, disappearance or seizure of the Boat which results in the loss of the possession thereof by the Company or any operator thereof for thirty (30) consecutive days;

**War Risks**

the risk of mines and all risks excluded from hull and machinery marine risks policies by clause 24 of the Institute Time Clauses (Hulls) (1.11.1995).

**1.2 Interpretation**

- (a) clause headings are inserted for ease of reference only and are not to affect the interpretation of this Deed;
- (b) words importing the singular number shall include the plural and vice versa;
- (c) references to a person are to be construed to include corporations, firms, companies, partnerships, individuals, associations, states and administrative and governmental and other entities whether or not a separate legal entity;
- (d) any reference to a document is a reference to that document as the same may have been and may from time to time hereafter be amended and supplemented;
- (e) references to clauses, paragraphs and schedules are to the clauses, paragraphs and schedules to this Deed;
- (f) any reference to a statute or statutory instrument or regulation is a reference to that statute, statutory instrument or regulation as the same may have been and may from time to time hereafter be modified, amended or re-enacted; and
- (g) fees, costs and expenses shall be exclusive of any value added tax or similar tax.

- 1.3 Any reference to the "**Boat**" shall include the vessel listed in the Schedule to this Deed and any share or interest therein.

**2 CHARGE AND ASSIGNMENT BY COMPANY**

- 2.1 The Company with full title guarantee hereby:

- (a) mortgages and charges each Boat (and all of the Company's interest in each Boat from time to time) in favour of the Funder;
- (b) assigns and agrees to assign to the Funder the full benefit of and all its rights, title and interest present and future in the following (the "**Assigned Property**");

- (i) all Insurances;
- (ii) all Requisition Compensation;
- (iii) any agreements entered into by the Company from time to time for the maintenance, repair, overhaul or servicing of a Boat;
- (iv) any lease, charter or other agreement for the hire or use of a Boat which is entered into by the Company from time to time; and
- (v) any other agreement or arrangement in any way relating to a Boat and to which the Company is or shall be a party at any time during the Security Period.

2.2 The Company shall serve such notices of assignments in relation to the Assigned Property as the Funder may require from time to time.

### **3 PAYMENT BY COMPANY**

3.1 The Company hereby covenants it will on demand pay and discharge the Secured Liabilities when due.

3.2 All payments to be made by the Company under this Deed shall be made in full, without any set-off or counterclaim whatsoever and free and clear of any deductions or withholdings, in immediately available freely transferable cleared funds in the relevant currency not later than 11 a.m. in London on the due date to the Funder.

### **4 NEGATIVE PLEDGE**

4.1 The Company warrants to the Funder that other than pursuant to the First Priority Charges prior to the execution of this Deed it has not mortgaged, assigned, transferred, pledged or charged or otherwise disposed of any of the Charged Property and further undertakes with the Funder that it shall not do so during the Security Period without the prior written consent of the Funder which it shall have the full power to withhold.

4.2 The Company covenants that without the prior written consent of the Funder it shall not nor shall it agree or purport to:

- (a) other than pursuant to the First Priority Charges sell, assign or transfer title to the whole or any part of the Charged Property or any interest in it other than pursuant to the Finance Documents;
- (b) create, or permit to subsist, any Encumbrance other than pursuant to the First Priority Charges whether in any such case ranking in priority to or pari passu with or after the mortgage or any other security created by this Deed over any part of the Charged Property;
- (c) other than pursuant to the First Priority Charges do or permit to be done any act or thing which might materially jeopardise the rights of the Funder in the Charged

Property or any part of it and will not omit or allow the omission of any act which might prevent the rights of the Funder in the Charged Property or any part of it from being exercised;

- (d) amend or vary any First Priority Charge;

## **5 INSURANCE**

5.1 The Company hereby covenants with the Funder from the date of this Deed until the expiry of the Security Period:

- (a) to insure and keep insured each Boat, in Sterling or such other currency as may be approved in writing by the Funder, at the Company's own expense, in the full replacement value of the relevant Boat (or such other figure as the Funder may approve) against fire, marine and other risks (including Excess Risks) and War Risks covered by hull and machinery policies and also loss of use and loss of hire;
- (b) to enter each Boat in the Company name for its full value and tonnage in a protection and indemnity association approved by the Funder with unlimited liability if available otherwise with the least limited liability against all Protection and Indemnity Risks; and
- (c) to effect such additional Insurances as shall (in the reasonable opinion of the Funder) be necessary or advisable.

5.2 The Company further covenants with the Funder from the date of this Deed until the expiry of the Security Period:

- (a) to effect the Insurances for each Boat in such amounts and upon such terms as shall from time to time be approved in writing by the Funder and through the Approved Brokers and with such Insurers as shall from time to time be approved in writing by the Funder;
- (b) to renew the Insurances for each Boat at least fourteen (14) days before the relevant Insurances expire and to procure that the Approved Brokers shall promptly confirm in writing to the Funder as and when each such renewal is effected;
- (c) punctually to pay all premiums, calls, contributions or other sums payable in respect of the Insurances and to produce all relevant receipts when so required in writing by the Funder;
- (d) to arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity or war risks association;
- (e) to give notice of assignment of the Insurances to the Insurers in the form approved by the Funder and, if the Funder requires, a Loss Payable clause in the form approved by the Funder shall be endorsed upon or attached to the Insurance Documents;
- (f) to procure that the Insurance Documents shall be deposited with the Approved Brokers and that such brokers shall provide the Funder with certified copies thereof

and shall issue to the Funder a letter or letters of undertaking in such form as the Funder may request;

- (g) to procure that the protection and indemnity and/or war risks associations in which each Boat is entered shall provide the Funder with a letter or letters of undertaking (in such form as the Funder may request) and shall provide the Funder with a copy of the certificate of entry;
- (h) to procure that the Insurance Documents shall provide that the lien or set off for unpaid premiums or calls shall be limited to only the premiums or calls due in relation to the relevant Insurances over each Boat and for fourteen (14) days' prior written notice to be given to the Funder by the Insurers (such notice to be given even if the Insurers have not received an appropriate enquiry from the Funder) in the event of non-renewal, cancellation or termination of the Insurances and in the event of the non-payment of the premium or calls the right to pay the said premium or calls within a reasonable time;
- (i) promptly provide the Funder with full information regarding any casualties or damage to a Boat in an amount in excess of £150,000.00 in respect of such Boat or in consequence whereof a Boat has become or may become a Total Loss;
- (j) at the written request of the Funder, to provide the Funder with a detailed report issued by a firm of marine insurance brokers or consultants appointed by the Funder in relation to the Insurances at the cost of the Company;
- (k) not to do any act nor voluntarily suffer nor permit any act to be done whereby any Insurance shall or may be suspended or avoided and not to suffer nor permit a Boat to engage in any voyage or to carry any cargo which is not permitted under the Insurances in effect without first covering the Boat to the amount herein provided for with insurance satisfactory to the Funder for such voyage or the carriage of such cargo;
- (l) (without limitation to the generality of the foregoing) in particular not to permit any of the Boats to enter or trade to any zone which is declared a war zone by any Government or by the Boat's War Risks Insurers unless the Funder shall first have given its consent thereto in writing and there shall have been effected by the Company and at their expense such special insurance as the Funder may require;
- (m) to procure that all amounts payable under the Insurances are paid in accordance with the loss payable clause approved by the Funder and to apply all amounts as are paid to the Company to the repair of the damage and the reparation of the loss in respect of which the said amounts shall have been received.

## **6 COMPANY'S COVENANTS**

- 6.1 The Company further covenant with the Funder that during the Security Period the Company will:

- (a) keep each Boat permanently registered as a British ship with the Maritime and Coastguard Agency in Cardiff in the sole name of the Company (or such other registers of ships as Funder may agree from time to time in writing). The Company shall not do or suffer to be done anything whereby any such registration may be forfeited or imperilled;
- (b) maintain the corporate existence of the Company under the laws of the England and Wales and comply with all relevant legislation applicable to the Company;
- (c) pay when due and payable all taxes, assessments, levies, governmental charges, fines and penalties lawfully imposed on and enforceable against any Boat;
- (d) (except pursuant to the relevant First Priority Charge) not sell, transfer, mortgage, charge, hypothecate or abandon (save in the case of maritime necessity) any Boat or any share or interest in a Boat or any of the Assigned Property without the prior written consent of the Funder which it shall have full power to withhold;
- (e) not cause or permit a Boat to be operated in any manner contrary to law and not engaged in any unlawful trade or carry any cargo that will expose any of the Boats to penalty, forfeiture or capture and in the event of hostilities in any part of the world (whether a war be declared or not) not employ any Boat or voluntarily suffer her employment in carrying any contraband goods;
- (f) not create or permit to be created or continued any lien or encumbrances (except created by the First Priority Charge or in favour of the Funder) whatsoever on a Boat and/or any Assigned Property (other than any lien on a Boat which may arise as a result of any necessary salvage), discharge and/or satisfy all claims and demands which if unpaid might in law or by statute or otherwise create a lien or encumbrance on a Boat;
- (g) on the written request of the Funder, provide satisfactory evidence that the wages, allotments, insurance and pension contributions of the master and crew of each Boat are being paid in accordance with the articles of agreement relating to the Boat and the relevant regulations, and that all deductions from the remuneration of the master and crew in respect of any tax liability (including PAYE) and national insurance contributions are being made and accounted for to the relevant authority and that the master has no claim for disbursements other than those properly incurred by him in the ordinary trading of the Boat on the voyage then in progress;
- (h) if any writ or proceedings shall be issued against a Boat or if a Boat shall be otherwise attached, arrested or detained by any proceeding in any court or tribunal or by any government or other authority, immediately notify the Funder thereof by facsimile or email confirmed by letter and as soon as practicably possible thereafter cause the Boat to be released and all liens or encumbrances thereof (except for those in favour of the Funder) to be discharged;
- (i) not without the prior written consent of the Funder (which it shall have full power to withhold) to voyage or time charter any Boat or place her under contract for employment for any period with any third party (the "Charter Party") which when

aggregated with any optional periods of extension contained in the said charter or contract, would exceed twelve (12) months or on terms whereby more than two (2) months' charter hire (or equivalent) is payable in advance;

- (j) not without the prior written consent of the Funder (which it shall have full power to withhold) to demise charter any Boat for any period whatsoever;
- (k) not without the prior written consent of the Funder (which it shall have full power to withhold) deliver any Boat into the possession of any person or persons for effecting repairs or renewals to the Boat with an aggregate value in excess of £150,000.00 unless such person or persons shall have given a written undertaking to the Funder not to exercise any lien or right of detention on the Boat in respect of the cost of such repairs or renewals;
- (l) at all times and at their own expense maintain each Boat in a seaworthy condition and in good running order and repair in accordance with first class ship ownership and ship management practice and keep each Boat in such condition as will entitle it to classification with the Classification Society free from recommendations and notations and provide the Funder with a certificate issued by the Classification Society in respect of each Boat to confirm that such classification is maintained in respect of the Boat together with copies of all other classification certificates and documents as the Funder may request in writing;
- (m) submit each Boat regularly to such periodical or other surveys that may be required for classification purposes and, if required by the Funder in writing, supply to the Funder copies of all survey reports issued in respect thereof;
- (n) notify the Funder immediately in writing of any recommendation or requirement imposed by the Classification Society, the Insurers or any other competent authority that is not complied with in accordance with its terms;
- (o) notify the Funder as soon as reasonably practicable in writing of any proposed dry docking or any underwater survey of a Boat so that the Funder (if it so desires) can arrange for a representative to be present;
- (p) at all times comply with all legal requirements whether imposed by enactment, regulation, common law or otherwise (including, without limitation, all port state control requirements) and have on board each Boat as and when legally required valid certificates showing compliance therewith;
- (q) comply with, and procure that all employees servants and agents of the Company comply with all Environmental Laws in relation to each Boat (as is relevant) including without limitation, its operation and/or management and the business of the Company from time to time;
- (r) obtain, comply with and procure that all employees, servants and agents or any Charter Party or employees, servants and agents of any Charter Party of the Company comply with all Environmental Approvals in relation to the operation and/or management of the relevant Boat as is applicable;

- (s) duly perform and discharge all duties and liabilities imposed on the Company under any charter, bill of lading or other contract relating to each Boat as is relevant;
- (t) not remove or permit the removal of any part of any Boat or any equipment belonging to a Boat, nor make or permit to be made any alteration in the structure type or speed of a Boat which may materially reduce the value of such Boat (unless such removal or alteration is required by statute or by the Classification Society) without the prior written consent of the Funder which it shall have full power to withhold;
- (u) at all reasonable times permit the Funder or its authorised representative full and complete access to each Boat for the purpose of inspecting the state and condition of such Boat and her papers and at the written request of the Funder deliver for inspection copies of any and all contracts and documents relating to such Boat whether on board or not;
- (v) promptly provide the Funder with information concerning the classification, status and insurance of any Boat and the use and employment and the position of such Boat;
- (w) when so requested by the Funder (but on only one occasion in each period of 12 calendar months) provide the Funder with a valuation of each Boat in Sterling such valuation to be made without physical inspection (unless otherwise required by the Funder) and on the basis of an arm's length purchase by a willing buyer from a willing seller and without taking into account any charter party, the valuations to be carried out by a firm of sale and purchase shipbrokers approved by the Funder at the cost of the Company, such cost to be reasonable and, for the avoidance of doubt, approved shipbrokers for this purpose are Derrick Offshore Ltd (Deroff) and Associated Marine Consultants (AMC);
- (x) in the event of requisition of a Boat by any government authority or other competent authority, execute any assignment that the Funder may, subject to the First Priority Charge, request in relation to any and all amounts which such government authority shall be liable to pay as compensation for the Boat or for her use and if received by the Company to pay such amounts immediately to the Funder, provided that if such requisition applies only to the use of such Boat, the provisions of this clause 6.1(x) shall not apply if there has been no Enforcement Event;
- (y) not appoint a manager of any Boat without the Funder's prior written consent;
- (z) execute and deliver to the Funder such documents of transfer as the Funder may require in the event of sale of a Boat pursuant to any power of sale contained in this Deed or which the Funder may have in law; and
- (aa) execute any further document or documents required by the Funder in order to perfect or complete the security created by this Deed

Provided that in relation to each Boat unless and until the relevant First Priority Charge is released the Company shall not be required to obtain the Funder's prior consent under this Clause 6 if the holder of such First Priority Charge has given its consent under the First Priority Charge to the corresponding matter.



## **7 PROTECTION OF SECURITY**

- 7.1 The Funder shall, without prejudice to its other rights and powers hereunder, have the right but be under no duty at any time to take such action as it considers necessary for the purpose of protecting the security created by this Deed and the Company shall pay to the Funder on demand all amounts paid by the Funder in providing such protection of the security with interest at the Default Rate from the date of payment of the said amounts by the Funder until the date of repayment by the Company to the Funder whether before or after judgment.
- 7.2 Without prejudice to the generality of clause 7.1:
- (a) in the event of a default in compliance with the provisions of clause 5 the Funder shall have the right to insure any Boat as provided in clause 5 and to pay any relevant unpaid premiums or calls then outstanding;
  - (b) in the event of a default in compliance with clauses 6.1(l) and 6.1(m) the Funder shall have the right to effect such surveys and repairs in respect of any Boat as it considers necessary;
  - (c) in the event of a default in compliance with clauses 6.1(c), 6.1(f) and/or 6.1(h) the Funder shall have the right to pay and discharge all such debts and liabilities and to take such actions as it considers necessary for the purpose of securing the release of any Boat.
- 7.3 For the avoidance of doubt, under no circumstances will the Funder be under any liability to the Company or any third party to pay any amount referred to in clause 7.2 or otherwise (including unpaid premium or calls) unless it has specifically agreed so to do in writing.

## **8 POWER OF SALE**

- 8.1 If any one or more Enforcement Events shall occur then the Funder shall have the right and power to, subject to the First Priority Charges:
- (a) take possession of each Boat and/or the Assigned Property as, acting entirely at its own discretion it deems necessary in the circumstances and exercise all the rights and powers of a mortgagee of the Boat and assignee of the Assigned Property;
  - (b) institute legal proceedings to recover judgment against the Company for the Secured Liabilities;
  - (c) order any Boat to proceed forthwith at the Company's risk and expense to a port or place nominated by the Funder: the Company shall give the necessary instructions to the master of the Boat to comply with any such order of the Funder and if the Company fail to give such instructions for any reason whatsoever the Funder shall have the right and power to give such instructions direct to the master of the Boat;
  - (d) sell any Boat or any shares therein (whether as mortgagee, attorney-in-fact for the Company or otherwise) either by public auction or private contract and whether or not on deferred terms of payment with the power to the Funder to make any such special

or other stipulations as it shall deem proper and/or to postpone the sale without being liable for any loss occasioned thereby. The Funder shall give the Company prior written notice of any proposed sale and in the case of a public auction the time, date and place of such auction;

- (e) pending the sale of a Boat, insure, manage, maintain and repair the Boat and charter, operate or employ or lay up or otherwise use the Boat for such time and upon such terms as it may consider to its advantage without being responsible for any loss or damage thereto and accounting only for the net profits if any arising from such use;
- (f) recover from the Company on demand all losses, expenses, payments and disbursements incurred by the Funder in or about or incidental to the exercise by it of any of the powers aforesaid together with interest thereon at the Default Rate from the date when such losses, expenses, payments or disbursements were incurred or made by the Funder until the date of reimbursement whether before or after judgment;
- (g) require all Insurance Documents and all claims correspondence to be delivered to the Funder or to the broker or adjuster nominated by it;
- (h) defend, discharge, compound, release or compromise all claims against the Company in respect of any Boat and/or the Insurances and/or the Requisition Compensation including (but not limited to) those which have given or may give rise to any charge or lien on the Boat or which are or may be enforceable by proceedings against a Boat;
- (i) recover, institute, pursue, discharge, compound, release or compromise all claims by the Company in respect of any Boat and/or the Insurances and/or the Requisition Compensation against the Insurers, any charterer or any other third party whatsoever; and
- (j) pay all amounts as the Funder considers appropriate in order to maintain and enforce its rights and powers under this Deed.

8.2 Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Deed.

## **9 PROCEEDS OF SALE**

9.1 The proceeds of a sale of each Boat and the proceeds of the Assigned Property received by the Funder under any of the rights or powers herein specified, all other amounts including insurance recoveries in respect of a Total Loss received by the Funder pursuant to or under the terms hereof or in any proceedings hereunder the application of which has not elsewhere herein been specifically provided for shall be applied in the following order:

**FIRST** in or towards payment of all costs, charges and expense of and incidental to any Receiver's appointment and the payment of his remuneration;

**SECOND** in payment of all damages, losses, expenses, payments and disbursements whatsoever (together with interest thereon as previously provided for) incurred by the Funder and/or any Receiver in or about or incidental to the exercise by the Funder

and/or such Receiver of the powers specified or otherwise referred to in this Deed or any of them;

**THIRD** in payment of the Secured Liabilities;

**FOURTH** in payment of the balance (if any) to the Company or to whomsoever shall be entitled thereto.

In the event that the proceeds are insufficient to pay the amounts specified in paragraphs FIRST, SECOND and THIRD above the Funder shall be entitled to collect and recover the balance from the Company or any other person liable therefor.

## **10 INDEMNITY**

- 10.1 The Company hereby undertake to indemnify the Funder against all liabilities whatsoever which the Funder may incur reasonably and in good faith at any time in relation to any Boat or otherwise in relation to the preservation and enforcement of the security created by this Deed.
- 10.2 Without prejudice to the generality of clause 10.1 the Funder shall have the power (but be under no duty) at any time to issue guarantees in respect of any liability of the Company in relation to a Boat and any Insurances, and the Funder shall have the right to demand payment from the Company of all amounts actually or contingently due under any such guarantee, the amount so payable being secured by the security created by this Deed.

## **11 INVALIDITY**

In the event that any term or condition of any of the Finance Documents is rendered or declared invalid or unenforceable in whole or in part by any statute, rule or regulation or any decision of any court or tribunal of competent jurisdiction then such determination or declaration shall not affect the validity of any other term or condition of the Finance Documents which (save as aforesaid) will remain in full force and effect and the Company undertake (in addition to the duties imposed by clause 6.1(aa) to execute such further document or documents as the Funder may reasonable require to complete and give effect to the security constituted by this Deed.

## **12 PROTECTION OF THIRD PARTIES**

No purchaser, assignee or other person dealing with the Funder shall be concerned to enquire whether the Secured Liabilities have become payable or whether any power which it is purporting to exercise has become exercisable or whether any amount is due under this Deed or as to the application of any amount paid or borrowed or as to the regularity of any sale by or other dealing with the Funder. All the protection to purchasers contained in sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with the Funder as if the Secured Liabilities had become due and the power of sale in relation to the ship had arisen on the date of this Deed.

### **13 POWER OF ATTORNEY**

- 13.1 The Company by way of security irrevocably appoints the Funder to be the attorney of the Company (with full powers of substitution and delegation) for the Company and in their name or otherwise and on their behalf and as their act and deed to sign, seal, execute and deliver and do all instruments, transfers, notices, documents and acts which the Company may or ought to do under the terms contained in this Deed and generally in their name and on their behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed or by the Law of Property Act 1925 on the Funder and to execute and deliver any document, agreement or do any act which it may deem proper in the exercise of all or any of the powers, authorities or discretions conferred on the Funder pursuant to this Deed.
- 13.2 The Company ratifies and confirms and agrees to ratify and confirm anything such attorney shall lawfully and properly do or purport to do under clause 13.1 and all amounts expended by any such attorney shall be deemed to be expenses incurred by the Funder under this Deed.
- 13.3 The Funder shall not exercise its powers under clause 13.1 unless an Enforcement Event has occurred and is continuing.

### **14 RECEIVER**

- 14.1 The Funder shall have the power at any time after an Enforcement Event has occurred to appoint a Receiver of the Charged Property or any part thereof.
- 14.2 The Funder may:
- (a) remove any Receiver previously appointed hereunder; and
  - (b) appoint another person or other persons as Receiver or Receivers, either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with a Receiver or Receivers previously appointed hereunder.
- 14.3 If at any time and by virtue of any such appointment(s) any two or more persons shall hold office as Receivers of the same assets or income, such Receivers may act jointly and/or severally so that each one of such Receivers shall be entitled (unless the contrary shall be stated in any of the deed(s) or other instrument(s) appointing them) to exercise all the powers and discretions hereby conferred on Receivers individually and to the exclusion of the other or others of them.
- 14.4 Every such appointment or removal, and every delegation, appointment or removal by the Funder in the exercise of any right to delegate its powers or to remove delegates herein contained, may be made in writing under the hand of any director, manager or other officer of the Funder.
- 14.5 Every Receiver shall have:
- (a) all the powers conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act;

- (b) all the powers specified in Schedule 1 of the Insolvency Act 1986 (whether or not such Receiver is an administrative receiver within the meaning of the said Act); and
- (c) all the powers and discretions conferred on the Funder under this Deed.

14.6 In making any sale or other disposal of any of the Charged Property in the exercise of their respective powers, the Receiver or the Funder may accept, as and by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including without limitation consideration fluctuating according to or dependent upon profit or turnover and consideration the amount whereof is to be determined by a third party. Any such consideration may be receivable in a lump sum or by instalments.

14.7 The Funder shall have the right at any time and as often as It considers appropriate to delegate all or any of the rights and powers granted to it by this Deed on such terms, in such manner and to such persons as the Funder considers appropriate.

14.8 No purchaser or other person dealing with the Funder or its delegate or any Receiver appointed hereunder shall be bound to see or inquire whether the right of the Funder or such Receiver to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary, or be concerned to see whether any such delegation by the Funder shall have lapsed for any reason or been revoked.

## **15 DISCHARGE OF SECURITY**

15.1 The security constituted by this Deed shall be continuing and shall not be considered as satisfied or discharged by any intermediate payment or settlement of the whole or any part of the Secured Liabilities or any other event including the insolvency, liquidation or administration of the Company and shall be binding until all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

15.2 At the end of the Security Period the Funder will at the request and cost of the Company release and discharge this Deed and transfer and reassign to the Company all the Funder's right, title and interest in the Boat and the Assigned Property.

## **16 AVOIDANCE OF PAYMENTS**

No assignment, security or payment which may be avoided or adjusted under any statute relating to bankruptcy or insolvency or under sections 238-245 of the Insolvency Act 1986 or similar legislation binding on the Company in the jurisdiction other than England and Wales and no release, settlement or discharge given or made by the Funder in reliance on any such assignment, security or payment shall prejudice or affect the right of the Funder to recover the Secured Liabilities from the Company (including the right to recover any amounts which it may have been compelled by due process of law to refund under the provisions of the Insolvency Act 1986 and any costs payable by it pursuant to or otherwise incurred in connection with such process) or to enforce the security created by or pursuant to this Deed to the full extent of the Secured Liabilities.

## 17 COSTS

17.1 The Company shall on demand and on a full indemnity basis pay to the Funder the amount of all costs and expenses and other liabilities (including legal and out-of-pocket expenses and any value added tax on such costs and expenses) which the Funder incurs in connection with:

- (a) the preparation, negotiation, execution and delivery of this Deed;
- (b) any actual or proposed amendment of or waiver or consent under or in connection with this Deed;
- (c) any discharge or release of this Deed;
- (d) the maintenance or exercise (or attempted maintenance or exercise) of any rights and powers under or in connection with and the enforcement (or attempted enforcement) of this Deed including (but not limited to) the sale or transfer of any Boat; or
- (e) dealing with or obtaining advice about any other matter or question arising out of or in connection with this Deed;

together with interest thereon at the Default Rate from the date of payment by the Funder until the date of the payment by the Company whether before or after judgment.

## 18 SET-OFF

18.1 Following an Enforcement Event, the Funder may, without notice to the Company, combine or consolidate all or any amounts standing to the credit of the Company' accounts with the Funder with the Secured Liabilities and/or set-off or transfer any such amounts in or towards the satisfaction of the Secured Liabilities, and may do so notwithstanding that the balances on such accounts and such liabilities may not be expressed in the same currency, and for the purpose of exercising any rights under this clause 18.1, with the amount standing to the credit of any such account of such other currencies as may be necessary to effect such set-off or transfer.

18.2 In this Clause "**rights under the general law**" means any right of set-off, combination or consolidation of accounts, lien or similar right which the Funder has under any applicable law.

## 19 NOTICES

19.1 Every notice, demand or other communication under this Deed shall be in writing delivered personally or by first class prepaid letter and shall be deemed to have been received, in the case of a letter, when delivered personally or forty eight hours after posting.

19.2 All notices sent to the Funder shall be sent to ABN AMRO Lease N.V., 5 Aldermanbury Square, London, EC2V 7HR or to such other address as the Funder may specify to the Company from time to time in writing.

- 19.3 All notices sent to the Company shall be sent to its address specified at the beginning of this Agreement or to such other address as the Company may specify to the Funder from time to time in writing.

## **20 CURRENCY INDEMNITY**

If under any application law or regulation or pursuant to a judgment or order being made or registered against the Company or the liquidation of the Company or without limitation for any other reason any payment under or in connection with this Deed is made or fails to be satisfied in a currency (the "**Payment Currency**") other than the currency in which such payment is expressed to be due under or in connection with this Deed (the "**Contractual Currency**") then to the extent that the amount of such payment actually received by the Funder when converted into the contractual currency at the rate of exchange falls short of the amount due under or in connection with this Deed the Company as a separate and independent liability shall indemnify and hold harmless the Funder against the amount of such shortfall. For the purposes of this clause "rate of exchange" means the rate at which the Funder is able on or about the date of such payment to purchase, in accordance with its normal practice, the contractual currency with the payment currency shall take into account (and the Company shall be liable for) any premium and other costs of exchange including any taxes or duties incurred by reason of any such exchange.

## **21 NO WAIVER**

- 21.1 No delay or omission on the part of the Funder in exercising any right, power or remedy under this Deed shall impair that right, power or remedy or operate as or be taken to be a waiver of it nor shall any single partial or defective exercise of any such right, power or remedy preclude any other further exercise under this Deed of that or any other right, power or remedy.
- 21.2 The Funder's rights under this Deed are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Funder deems expedient.
- 21.3 Any waiver by the Funder of any terms of this Deed or any consent or approval given by the Funder under it shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 21.4 The security constituted by the this Deed shall be in addition to and shall not be prejudiced, determined or affected by or operate so as in any way to prejudice, determine or affect any security which the Funder may now or at any time in the future hold for or in respect of the Secured Liabilities or any part of it and shall not be prejudiced by time or indulgence granted to any person or any abstention by the Funder in perfecting or enforcing any remedies, securities, guarantees or rights it may now or in the future have from or against the Company or any other person or any waiver, release, variation, act, omission, forbearance, unenforceability, indulgence or invalidity of any such remedy, security, guarantee or right.
- 21.5 Any statement, certificate or determination of the Funder as to the Secured Liabilities or without limitation any other matter provided for in this Deed shall in the absence of manifest error be conclusive and binding on the Company.

## **22 COUNTERPARTS**

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

## **23 ASSIGNMENT**

The Funder may assign, transfer, charge or otherwise dispose of or encumber, create any trust over or deal in any manner with this Deed or any right, benefit or interest under it without the consent of the Company.

## **24 PROPER LAW AND JURISDICTION**

24.1 This Deed (any non-contractual obligations arising out of or in connection with it) is governed by and shall be construed in accordance with English Law.

24.2 The Funder shall have the right to bring in rem proceedings against the Boat or proceedings against the Company in any court of competent jurisdiction and the taking of any such proceedings in one or more jurisdictions shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not (unless precluded by applicable law).

**EXECUTED** as a **DEED** by the parties or their duly authorised representatives but not delivered until the date of this Deed.



## **SCHEDULE 1**

### **The Boats**

<b>Name of Boat</b>	<b>Official Number</b>	<b>First Priority Charge</b>
Towyn Bay - 18M	917595	A first priority charge dated 19 July 2011 between the Company and Finance Wales Investments Limited
Porth Wen	917924	A first priority charge dated 11 November 2011 between the Company and Finance Wales Investments Limited
Porth Cadlan	918006	A first priority charge dated 15 December 2011 between the Company and Finance Wales Investments Limited
Puffin Island	917105	A first priority charge dated 2 November 2010 between the Company and Finance Wales Investments Limited

## SCHEDULE 2

### The Loan Agreements

Name of Boat	Official Number	Date of Loan Agreement
Wylfa Head - 15M	919154	28 September 2012
Penrhos Bay - 20M	916759	28 September 2012
Porth Dafarch - 16M	917181	28 September 2012
Porth Dinllaen - 16M	917374	28 September 2012
Holyhead Bay 19M	920404	20 February 2015
Aberdaron Bay - 18M	916782	16 August 2012
Kinmel Bay 18M	918058	31 July 2012
Caernarfon Bay 19M	918208	16 July 2012
Tremadog Bay 19M	918201	16 July 2012
Cymyran Bay - 27M	919068	21 May 2013
Cemlyn Bay 24M	918569	16 August 2012
Porth Eilian - 18M	919226	24 December 2013
Trearddur Bay - 20M	920450	20 February 2015
Rhosneigr Bay - 27M	920739	20 July 2015
Beaumaris Bay - 21M	920088	3 December 2014
AFON CEFNI	905618	28 September 2012
AFON LLIGWY	911299	28 September 2012
DULAS ISLAND	915517	28 September 2012
AFON LAS	9547398	28 September 2012
MEIBION ISLAND	9496991	31 July 2012
AFON LLIFON	9420875	28 September 2012

AFON ALAW	908326	28 September 2012
AFON MENAI	920343	18 December 2014
AFON MENAI	920343	18 December 2014

**SIGNATURES TO THE DEED OF COVENANTS**

**THE COMPANY**

**EXECUTED** as a DEED by

**HOLYHEAD WORKBOATS LIMITED**

acting by a director in the presence of

Signature of witness

Name

Address

**THE FUNDER**

**EXECUTED** as a DEED by

**ABN AMRO LEASE N.V.**

acting by

Authorised signatory