



Registration of a Charge

Company name: **BIBBY MARINE LIMITED**

Company number: **00020535**



X325D9AO

Received for Electronic Filing: **20/02/2014**

Details of Charge

Date of creation: **18/02/2014**

Charge code: **0002 0535 0041**

Persons entitled: **BNP PARIBAS**

Brief description:

Contains fixed charge(s).

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 ORIGINAL INSTRUMENT.**

Certified by: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 20535

Charge code: 0002 0535 0041

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th February 2014 and created by BIBBY MARINE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th February 2014 .

Given at Companies House, Cardiff on 20th February 2014



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Private & confidential

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Sign & Dated Norton Rose Fulbright LLP
20 February 2014

Dated 18 February 2014

BIBBY MARINE LIMITED

and

BNP PARIBAS

(as security agent and trustee)

**SUBORDINATION AGREEMENT
relating to BIBBY ATHENA**

 **NORTON ROSE FULBRIGHT**

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THIS DEED is dated 18 February 2014 and made BY:

- (1) **BIBBY MARINE LIMITED**, a company incorporated in England and Wales whose registered office is at 105 Duke Street, Liverpool, L1 5JQ, in favour of
- (2) **BNP PARIBAS**, a société anonyme of 16 boulevard des Italiens, Paris 9ième, France and registered in the Register of Commerce and Companies of Paris under number 662 042 449 or such other person as may be appointed security agent and trustee for the Creditors under the Loan Agreement (the "**Security Agent**"),

in relation to a €6,603,610 loan (the "**Loan**") to Bibby Athena Limited.

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED as follows:

1 Background

We refer to:

- (a) the loan agreement (the "**Loan Agreement**") dated 17 February 2014 and made between (1) Bibby Athena Limited as borrower (the "**Borrower**"), (2) the banks and financial institutions listed therein as Banks and (3) BNP Paribas as Lead Arranger, Account Bank, Agent and Security Agent, pursuant to which the Banks agreed (inter alia) to make the Loan available to the Borrower;
- (b) the intra group loan agreement dated 18 February 2014 (the "**Intra-Group Loan Agreement**") made between ourselves and the Borrower for an amount of up to £2,500,000 (the "**Subordinated Loan**").

2 Defined expressions

In this Deed, unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the Loan Agreement and used in this Deed shall have the same meaning where used in this Deed.

In this Deed, unless the context otherwise requires:

"Collateral Instruments" means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any indebtedness or liabilities of the Borrower or any other person liable and includes any documents or instruments creating or evidencing a mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, trust arrangement or security interest of any kind.

3 Subordination Undertaking

In consideration for the payment of £10 and other good and valuable consideration (the receipt and adequacy of which we hereby acknowledge) we hereby agree and undertake that:

3.1 Subordination of the Intra-Group Loan Agreement

our rights, title and interest in under the Intra-Group Loan Agreement and in respect of the Subordinated Loan shall be in all respects subordinate to, and rank in priority subsequent to all of the Creditors' rights, title and interest under the Loan Agreement and the Security Documents; and

3.2 Prejudicial arrangements

we have not entered into and will not, whilst any moneys are outstanding under the Loan Agreement or any Security Documents, knowingly enter into any arrangement in respect of the Intra-Group Loan Agreement or the Subordinated Loan or any transactions related thereto or contemplated thereby with the Borrower whereby the Creditors' rights, title and interest thereunder are or will be prejudiced.

4 Negative Undertakings

Whilst any moneys are outstanding under the Loan Agreement or any Security Documents we agree that, without the Security Agent's prior written consent, we will not:

- 4.1 make any demand on the Borrower for repayment pursuant to clause 4 of the Intra-Group Loan Agreement or otherwise demand or accept repayment in whole or in part of the Subordinated Loan or demand or accept any Collateral Instrument in respect of the same or dispose of the same (i) at any time after a Default has occurred and the Security Agent has so required, or (ii) if, prior to such demand, such demand or acceptance would prejudice the Borrower's ability to fulfil its obligations under the Loan Agreement or any other Security Document;
- 4.2 exercise any rights of subrogation, reimbursement and indemnity against the Borrower or any other person liable;
- 4.3 after a Default has occurred, require that any interest or default interest be paid to us pursuant to clause 5 of the Intra-Group Loan Agreement;
- 4.4 take any steps to increase the interest rate payable under clause 5.1 of the Intra-Group Loan Agreement above 2% per annum above the base rate from time to time of the Bank of England;
- 4.5 take any step to enforce any right against the Borrower or any other person liable in respect of the Subordinated Loan;
- 4.6 claim any set-off or counterclaim against the Borrower or any other person liable or claim or prove in competition with the Creditors in the liquidation of the Borrower or any other person liable or have the benefit of, or share in, any payment from or composition with, the Borrower or any other person liable or any other Collateral Instrument now or hereafter held by the Creditors for any and all other amounts owing (actually or contingently) under the Intra-Group Loan Agreement or for the obligations or liabilities of any other person liable but so that, if so directed by the Security Agent, we will prove for the whole or any part of our claim in the liquidation of the Borrower or any other person liable on terms that the benefit of such proof and of all money received by us in respect thereof shall be held on trust for the Security Agent and applied in or towards discharge of and all other amounts owing (actually or contingently) under the Intra-Group Loan Agreement in such manner as the Security Agent shall deem appropriate; and
- 4.7 amend any provision of the Intra-Group Loan Agreement.

5 Turnover trust

If, contrary to clause 4, we take or receive the benefit of any security or receive or recover any money or other property, such security, money or other property shall be held on trust for the Security Agent and shall be delivered to the Security Agent on demand.

6 Law and jurisdiction

- 6.1 The agreement constituted by this Deed and any non-contractual obligations connected with it shall be governed by and construed in accordance with English law.
- 6.2 We agree, for the benefit of the Security Agent and the other Creditors that any legal action or proceedings arising out of or in connection with this Deed and any non-contractual obligations connected with it against us or any of our assets may be brought in the English courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the rights of

the Security Agent or the other Creditors to take any proceedings against us in the courts of any other competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

7 Contracts (Rights of Third Parties) Act 1999

No term of this Deed shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

IN WITNESS whereof this Deed has been duly executed as a Deed the day and year first above written.

EXECUTED and DELIVERED as a DEED

by SEAN GOLDING

for and on behalf of

BIBBY MARINE LIMITED

pursuant to a power of attorney

dated

in the presence of:

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Attorney in Fact

Witness

Name: PATRICIA PRINYSK

Address: WEIGHTMANS LLP

Occupation: SOLICITOR