



Companies House

MR01(ef)

Registration of a Charge

Company name: **ICELAND FOODS LIMITED**

Company number: **01107406**

Received for Electronic Filing: **11/06/2013**



Details of Charge

Date of creation: **29/05/2013**

Charge code: **0110 7406 0029**

Persons entitled: **BANC OF AMERICA LEASING & CAPITAL, LLC**

Brief description: **BOMBARDIER CHALLENGER 605 AIRCRAFT WITH MANUFACTURER'S
SERIAL NUMBER 5920 BEARING REGISTRATION M-FRZN**

Contains fixed charge(s).

Notification of addition to or amendment of charge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **JAYMINI PHILP, HUNTON & WILLIAMS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1107406

Charge code: 0110 7406 0029

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th May 2013 and created by ICELAND FOODS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th June 2013 .

Given at Companies House, Cardiff on 12th June 2013



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

COLLATERAL ASSIGNMENT OF PURCHASE AGREEMENT

THIS COLLATERAL ASSIGNMENT OF PURCHASE AGREEMENT (this "Assignment") is dated as of May 20, 2013, by and between BANC OF AMERICA LEASING & CAPITAL, LLC ("Lessor"), and ICELAND FOODS LIMITED ("Lessee"), a company incorporated under the laws of England and Wales.

A. Lessee and Bombardier Inc. ("Supplier") have entered into the Aircraft Purchase Agreement dated May 20, 2013 (together with all specifications, amendments, addenda, attachments, appendices, change orders and exhibits thereto and as amended, modified, amended and restated and/or supplemented from time to time, the "Purchase Agreement"), with respect to the acquisition and outfitting of a Bombardier Challenger 605 aircraft, serial number 5920 (as more particularly described therein, the "Aircraft").

B. Pursuant to a certain Aircraft Lease (S/N 5920) dated as of the date hereof (together with all supplements, addenda, riders and exhibits thereto and as amended, modified, amended and restated and/or supplemented from time to time, the "Lease"), between Lessee and Lessor, Lessor has agreed, subject to the terms and conditions contained therein, to make a progress payment to Supplier under the Purchase Agreement (the "Progress Payment"). On or before August 30, 2013, Lessee will assign to Lessor all of its rights under the Purchase Agreement to purchase and take title to the Aircraft pursuant to an assignment agreement to be entered into concurrently with Lessor's purchase of the Aircraft as contemplated under the Lease, and Lessee will lease the Aircraft from Lessor under the Lease.

C. In order to induce Lessor to enter into the Lease with Lessee and make the Progress Payment contemplated thereunder, Lessee has offered and agreed to secure the payment and performance of any and all obligations and indebtedness of Lessee to Lessor under the Progress Payment Schedule or the Note (collectively, the "Obligations") by granting to Lessor, among other things, a collateral assignment of, and first priority security interest in, all Lessee's right, title and interest in and to the Purchase Agreement and any other documents or agreements entered into now or hereafter in connection with the Purchase Agreement (collectively, the "Purchase Documents").

D. Upon notice to Supplier (in the form attached hereto as Exhibit A (the "Notice of Assignment")), Supplier has agreed to consent to the collateral assignment by executing and delivering an assignment acknowledgment letter in the form attached to such Notice of Assignment as Appendix 1 (the "Acknowledgment Letter").

E. All capitalized terms used herein that are not otherwise defined shall have the meaning ascribed to them in the Lease or the Purchase Agreement, as applicable.

NOW THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

Section 1. Collateral Assignment.

(a) In order to secure the payment and performance of any and all Obligations, Lessee hereby collaterally assigns and sets over to Lessor, and grants to Lessor a first priority security interest in, all of Lessee's rights, title and interest in and to (i) the Purchase Documents, including, without limitation, (x) the right to make progress payments thereunder and purchase the Aircraft pursuant to the Purchase Documents, and the right to accept delivery of, and take title to, the Aircraft and to be named the purchaser in Supplier's invoices and bills of sale for the Aircraft, (y) all claims against Supplier arising under the Purchase Documents, including, without limitation, all warranty and indemnity provisions contained in the Purchase Documents (except, so long as no Event of Default shall have occurred, for Lessee's right to repayment of the refundable deposit in an amount equal to \$500,000 pursuant to Section 2.1 of the Purchase Agreement), and (z) any and all rights of Lessee to compel performance of the terms of the Purchase Documents, (ii) all now existing and hereafter arising or acquired general intangibles of

Lessee relating to the Purchase Documents; (iii) all now existing and hereafter arising or acquired "proceeds" of the foregoing, which term shall have the meaning assigned to it in the UCC (as such term is defined below), and in any event, shall include, but not be limited to, all goods, accounts, chattel paper, documents, instruments, general intangibles, investment property, deposit accounts and supporting obligations (to the extent any of the foregoing terms are defined in the UCC, any such foregoing terms shall have the meanings given to the same in the UCC); (iv) the Aircraft and all present or future additions, attachments, or accessories thereto and replacements thereof, all engines and avionics, all tools, manuals, service records, software and similar information and materials related to the Aircraft, all payments, amounts, refunds, rebates and all other amounts of any kind whatsoever relation to the Purchase Agreement and/or the Aircraft and the products, proceeds, offspring, rents and profits therefrom or thereof, and (v) all now existing and hereafter arising or acquired books and records relating to any or all of the above, including, without limitation, all ledger sheets, ledger cards, files, correspondence, books of account, business papers, tapes, cards, computer programs, computer software, computer discs, computer runs, computer data and computer records and any other electronic or computer documents, information or records of any kind whatsoever in the possession or control of Lessee, any computer service bureau or any other third party of any kind whatsoever, other than any books and records in the possession or control of Supplier to which Lessee is not entitled or does not have a right (any of such collateral property described in subclauses (i) through (v) above sometimes hereinafter collectively referred to as the "Collateral"). For purposes of this Assignment, the term "UCC" shall mean the Uniform Commercial Code as adopted in the State of New York and as amended or revised from time to time after the date of this Assignment.

(b) If, and so long as, no Default or Event of Default has occurred and is continuing, Lessee shall be authorized, and is hereby authorized on behalf of Lessor in the name of Lessee, to exercise all rights and powers of the purchaser under the Purchase Documents and to retain any recovery or benefit resulting from the enforcement of any warranty, indemnity or right to damages under the Purchase Documents or otherwise existing against Supplier, except that in all instances only Lessor shall be entitled to receive directly from Supplier any and all cash refunds, rebates or returns of any kind whatsoever of, or credits of any kind whatsoever with respect to, the purchase price of the Aircraft and any amounts paid towards such purchase price, including, without limitation, any progress payments made to Supplier under or in connection with the Purchase Documents. Any amounts so received by Lessor shall be immediately applied first to all interest then due and payable, then to the unpaid Principal Amount as defined in the Note and then to all other amounts then due and payable to Lessor under the Lease Documents. All non-cash refunds, rebates or returns of any kind whatsoever of, or credits of any kind whatsoever with respect to, the purchase price of the Aircraft shall be applied by Lessee as reductions to the purchase price of the Aircraft (except, so long as no Event of Default shall have occurred, for Lessee's right to repayment of the refundable deposit in an amount equal to \$500,000 pursuant to Section 2.1 of the Purchase Agreement).

Section 2. Representations. Lessee hereby represents and warrants that (i) a true and complete copy of the Purchase Agreement was delivered to Lessor on the date hereof; (ii) as of the date of this Assignment, the Purchase Agreement is in full force and effect, is enforceable in accordance with its terms and constitutes the entire agreement between Lessee and Supplier with respect to the purchase of the Aircraft; (iii) no consent or approval of any other party is required in connection with its execution, delivery and performance of this Assignment; (iv) it is, and has all rights of, the "Buyer" under the Purchase Agreement, and it has not previously assigned, pledged or granted any interest in the Collateral or any part thereof (other than the Floating Charge which shall be subject and subordinate at all times to the lien granted to Lessor pursuant to this Assignment), (vi) all filings, registrations, notices and other actions and approvals necessary to carry out the intent of this Assignment have been made or obtained, and (vii) Lessor has a perfected, first priority security interest in the Collateral.

Section 3. Assignments, Modifications and Terminations. Lessee shall not assign, pledge or grant any interest in the Collateral or any part thereof to any party other than Lessor (other than the Floating Charge which shall be subject and subordinate at all times to the lien granted to Lessor pursuant to this Assignment). Lessee agrees to not terminate, change, amend or otherwise modify the Purchase Documents without the prior written consent of Lessor, except that, so long as no Default or Event of Default under any Lease Document has occurred and is continuing, Lessee shall be permitted, during the

change order process, to deal directly with Supplier in order to make changes to the Completion Work (as such term is defined in the Purchase Agreement) required by Lessee; provided, however, that, notwithstanding any changes to the Completion Work or otherwise, no such change shall cause the purchase price for the Aircraft to exceed the aggregate amount Lessor has agreed to fund pursuant to the Lease, and Lessor shall not be obligated or liable, and Lessor has not agreed, in any way whatsoever, to increase or modify the amount(s), or to extend or modify the funding (or any other) date, of the Progress Payment.

Section 4. Events of Default.

(a) Upon, and effective as of, the occurrence and continuation of any Default or Event of Default, Lessee shall no longer be authorized to exercise all rights and powers of the purchaser under the Purchase Documents with respect to such Aircraft or to retain any recovery or benefit resulting from the enforcement of any warranty, indemnity or right to damages under the Purchase Documents or otherwise, and Lessor shall then be entitled to immediately exercise any and all rights, remedies and recourses available to it under or in connection with this Assignment, the Purchase Documents, the Lease Documents or otherwise, without any notice or demand, including, without limitation, exercising all of the rights and powers of the purchaser under the Purchase Documents.

(b) Lessee acknowledges and agrees that (i) receipt by Lessor of a Default Notice (as defined in the Acknowledgment Letter) from Supplier as described in Section 4 of the Acknowledgment Letter or (ii) default or breach by Supplier of any material term or condition of the Purchase Agreement shall constitute an Event of Default under Clause 14 (r) the Lease.

Section 5. Continuing Liability of Lessee. It is expressly agreed that anything contained herein or in the Purchase Documents to the contrary notwithstanding: (a) Lessee shall at all times remain primarily liable to Supplier to perform all of the duties and obligations of the purchaser under the Purchase Documents to the same extent as if this Assignment had not been executed, (b) the exercise by Lessor of any of the rights assigned hereunder shall not release Lessee from any of its duties or obligations or liability under the Purchase Documents; and (c) except to the extent expressly assumed by Lessor pursuant to Section 8 of the Acknowledgment Letter, Lessor shall not have any obligation or liability under the Purchase Documents by reason of, or arising out of, this Assignment or be obligated to perform any of the obligations or duties of Lessee under the Purchase Documents, including, but not limited to, any obligation to pay the purchase price of the Aircraft or any obligation to pay any progress payments under or in connection with the Purchase Documents, or be obligated to make any inquiry into the sufficiency of or authorization for any payment received by Supplier or to present or file any claim or to take any other action to collect or enforce any claim for any payment assigned hereunder.

Section 6. Covenants.

(a) Lessee hereby covenants and agrees that it shall not file or record, or permit to be filed or recorded, any corrective or termination statements with respect to any FAA filings or UCC financing statements, amendments or assignments or control agreements, or any filings pursuant to the Cape Town Convention or the Isle of Man Aircraft Registry, filed or recorded by or for the benefit of Lessor with respect to any of the Collateral without Lessor's prior written consent.

(b) Without limiting the generality of the foregoing or any other term or provision of this Assignment or any terms or provisions of any of the Lease Documents, Lessee hereby further agrees that (i) Lessee will not register or file, or permit or consent to the registration or filing of, any International Interests, any prospective International Interests, any contracts of sale or any prospective contracts of sale, of any kind whatsoever in connection with, or relating to, or arising under, any of this Assignment, the Purchase Documents, the Lease Documents and/or the Aircraft with the International Registry or under the Cape Town Convention, except (1) for the sale of the Aircraft to Lessor at the Delivery Time (as defined in the Purchase Agreement) and upon payment in full of Supplier for the Aircraft at such Delivery Time, (2) with respect to Lessor's interest in the Aircraft upon any request by Lessor for such registration and/or filing at the Delivery Time and upon payment in full of Supplier for the Aircraft at such Delivery Time, and (3) as otherwise consented to in writing by Lessor, (ii) Lessee shall, at Lessee's own cost and expense, promptly

cause any non-consensual lien, and/or any non-permitted International Interests, prospective International Interests, contracts of sale or prospective contracts of sale, that is or are registered with the International Registry to be discharged, (iii) in the event Lessee fails to fully and timely comply with any term or provision of subclauses (i) or (ii) above, and in addition to any and all other rights or remedies of Lessor hereunder or under or in connection with any of the Lease Documents or the Purchase Documents or at equity or in law or otherwise, upon application by Lessor to any court having jurisdiction, or upon Lessor bringing a judicial proceeding in the Republic of Ireland, seeking a discharge or release of any such any non-consensual lien, and/or any non-permitted International Interests, prospective International Interests, contracts of sale or prospective contracts of sale, shall be entitled to a decree or order against Lessee and/or the registrar of the International Registry, as the case may be, requiring that any non-consensual lien, and/or any non-permitted International Interests, prospective International Interests, contracts of sale or prospective contracts of sale, that is or are registered with the International Registry to be immediately discharged or released from or at the International Registry, and (iv) in the event Lessee fails to fully and timely comply with any term or provision of subclauses (i) or (ii) above, and in addition to any and all other rights or remedies of Lessor hereunder or under or in connection with any of the Lease Documents or the Purchase Documents or at equity or in law or otherwise, Lessee hereby irrevocably authorizes Lessor, at Lessee's own cost and expense, to take any and all action that Lessor deems necessary or desirable to have any non-consensual lien, and/or any non-permitted International Interests, prospective International Interests, contracts of sale or prospective contracts of sale, that is or are registered with the International Registry to be discharged or released. Nothing in this Assignment shall relieve Lessee of any of its obligations under the Lease Documents.

Section 7. Miscellaneous.

(a) BOTH PARTIES AGREE THAT THIS ASSIGNMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF BOTH PARTIES SHALL BE GOVERNED BY, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE, OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY, AND PERFORMANCE.

(b) The division of this Assignment into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Assignment. This Assignment may be executed in any number of counterparts and by the parties hereto on separate counterparts. This Assignment may be executed by facsimile signature or by delivery of signatures by electronic mail. This Assignment, and each of the other Lease Documents, the Purchase Documents, and Required Documents, collectively constitute, and are intended to collectively constitute, the complete and exclusive statement of the terms of the agreement between Lessor and Lessee with respect to the purchase and leasing of the Aircraft. No term or provision of this Assignment may be amended, altered, waived, discharged, or terminated except in a writing signed by a duly authorized officer of the party against whom the enforcement of the amendment, alteration, waiver, discharge or termination is sought. No failure or delay by Lessor in exercising any right, power or privilege hereunder shall operate as a waiver thereof or the exercise of any other right, power or privilege. Any provision of this Assignment that may be determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective in such jurisdiction to the extent thereof without invalidating the remaining provisions of this Assignment, which shall remain in full force and effect.

(c) All communications and notices provided for herein shall be given and deemed effective as set forth in the Lease.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute and deliver this Assignment as of the date first above written.

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BANC OF AMERICA LEASING & CAPITAL, LLC

ICELAND FOODS LIMITED

By: Deborah M. Hayes
Name: **Deborah M. Hayes**
Title: **Vice President**

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute and deliver this Assignment as of the date first above written.

BANC OF AMERICA LEASING & CAPITAL, LLC

ICELAND FOODS LIMITED

By: _____
Name:
Title:

By: T.S. Oshadui
Name: T.S. Oshadui
Title: General Manager