



**Registration of a Charge**

Company Name: **THAKEHAM MUSHROOMS LIMITED**

Company Number: **07698195**



XCDDSFPP

Received for filing in Electronic Format on the: **03/10/2023**

**Details of Charge**

Date of creation: **25/09/2023**

Charge code: **0769 8195 0009**

Persons entitled: **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND AS  
SECURITY TRUSTEE FOR EACH OF THE GOVERNOR AND COMPANY OF  
THE BANK OF IRELAND AND BANK OF IRELAND (UK) PLC**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or  
undertaking of the company).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by:

**A&L GOODBODY**



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

Company number: 7698195

Charge code: 0769 8195 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th September 2023 and created by THAKEHAM MUSHROOMS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd October 2023 .

Given at Companies House, Cardiff on 3rd October 2023

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 25 September 2023

**The companies as set out in Schedule 1 hereto**  
(the **Chargors**)

**The Governor and Company of the**  
**Bank of Ireland**  
(as **Security Trustee**)

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**SUPPLEMENTAL DEBENTURE  
FIXED AND FLOATING CHARGES**  
(to a debenture dated 29 November 2021)

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## TABLE OF CONTENTS

1	INTERPRETATION.....	3
2	PAYMENT PROVISIONS .....	9
3	CHARGING PROVISIONS .....	10
4	CONTINUING SECURITY .....	14
5	REPRESENTATIONS AND WARRANTIES .....	16
6	UNDERTAKINGS.....	19
7	ENFORCEMENT OF SECURITY .....	27
8	RECEIVERS .....	28
9	APPLICATION OF PROCEEDS .....	29
10	CONSOLIDATION OF ACCOUNTS AND SET-OFF .....	29
11	FURTHER ASSURANCES .....	30
12	POWER OF ATTORNEY .....	30
13	COSTS AND EXPENSES.....	31
14	CURRENCY CONVERSION AND INDEMNITY .....	31
15	MISCELLANEOUS PROVISIONS .....	31
16	RIGHTS AND REMEDIES .....	32
17	ASSIGNMENT .....	33
18	NOTICES .....	33
19	COUNTERPARTS .....	33
20	RELEASE OF SECURITY .....	33
21	GOVERNING LAW .....	34
22	ENFORCEMENT .....	34
23	Service of Process .....	34
	Schedule 1 The Chargors .....	44
	Schedule 2 Powers of a Receiver.....	47
	Schedule 3.....	51
	Part 1 Accounts.....	51
	Part 2 Insurance.....	52
	Part 3 Intellectual Property - Patents .....	53
	Part 4 Material Contracts   None as at the date of this Deed.....	53
	Part 5 Shares .....	53
	Part 6 Plant and Equipment .....	54
	Part 7 Mortgaged Property.....	54
	Part 8 Leases .....	55
	Schedule 4 Form of Notice of Assignment of Material Contracts and Acknowledgement .....	56
	Part 1 Notice of Assignment.....	56

Part 2 Acknowledgment of Assignment .....	57
Schedule 5 Form of Notice of Assignment of Insurances and Acknowledgement.....	58
Part 1 Notice of Assignment.....	58
Part 2 Acknowledgment of Assignment .....	60
Schedule 6 Form of Notice of Assignment of Blocked Account and Acknowledgement .....	61
Part 1 Notice of Assignment.....	61
Part 2 Acknowledgment of Assignment .....	63
Schedule 7.....	64
Part 1 - Notice of Assignment .....	64
Part 2 – Acknowledgment of Assignment .....	66
Schedule 8.....	67
Part 1 Share Transfer Form .....	67
Part 2 Director's Letter of Resignation .....	69
Part 3 Directors Letter of Authority .....	70
Part 4 Special Resolutions .....	71

**THIS DEED** is dated                      25 September                      2023 and made between

- (1) **THE COMPANIES** each of whose name, address, jurisdiction of incorporation and registration number is set out in Schedule 1 hereto (together the **Chargors** and each a **Chargor**); and
- (2) **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND** as security trustee for the Secured Parties (the **Security Trustee**)

## **RECITALS**

- (A) Pursuant to the Facilities Agreement the Lenders have agreed to make available to the Borrowers certain loan facilities and other financial accommodation on the terms and subject to the conditions of the Facilities Agreement.
- (B) Pursuant to the terms of the Original Debenture (as defined below), the Chargors thereby secured the Secured Assets (as defined in the Original Debenture) in favour of the Security Trustee
- (C) The execution and delivery by the parties hereto of this Deed is a condition precedent to the obligations of the Lenders under the 2023 Amendment and Restatement Agreement.
- (D) It has been agreed between the Chargors and the Security Trustee that the Original Debenture shall be supplemented by this Deed and the Secured Obligations now owing and/or which shall become owing shall be secured by the Original Debenture as supplemented by this Deed.
- (E) The Security Trustee has agreed to entry into this Deed as security trustee for the Secured Parties.

## **1 INTERPRETATION**

### **1.1 Definitions**

In this Deed, the following terms shall, unless the context otherwise requires, have the following meanings:

**2023 Amendment and Restatement Agreement** means the amendment and restatement agreement made between, among others, the Company, the Subsidiaries listed in Part 1 of Schedule 1 thereto as Original Borrowers, the Subsidiaries listed in Part 2 of Schedule 1 thereto as Original Guarantors, The Governor and Company of the Bank of Ireland as Arranger, the Security Trustee and the Financial Institutions listed in Part 3 of Schedule 1 thereto as Original Lenders;

**Account** means

- (a) each account specified in Schedule 3Part 1 (*Accounts*); and
- (b) all other current, deposit or other accounts with any bank or financial institution in which the Chargors now or in the future have an interest,

and any replacement, redesignation or reinstatement of any such account whether by current account or deposit account or otherwise;

**Account Bank** means any bank or financial institution with which the Chargors maintain an Account from time to time;

**Act** means the Law of Property Act 1925;

**Ancillary Rights** means all covenants, agreements, undertakings, warranties, bonds, guarantees, indemnities and other agreements the benefit of which is now or in the future vested in the Chargors in

respect of the design, construction, fit out or maintenance of any building, structure or erection now or in the future on the Mortgaged Property or of any roads, footpaths or utilities for services now or in the future abutting or serving the Mortgaged Property or the taking in charge thereof or the paying of any charge or levy in respect thereof and all guarantees and indemnities in respect of any lessee's or licensee's obligations under any lease or licence of the Mortgaged Property;

**Blocked Accounts** means:

- (a) each Mandatory Prepayment Account;
- (b) each Holding Account; and

and, in each case, all monies now or at any time hereafter standing to the credit thereof and all entitlements to interest and other rights and benefits accruing or arising in connection with any such accounts or monies and the debt represented thereby and Blocked Account shall be construed accordingly;

**Charged Securities** means

- (a) the shares and other securities specified in Schedule 3Part 5 ; and
- (b) all other shares or other securities in the capital of any company which any of the Chargors may now or hereafter hold or beneficially own;

**Company** means Monaghan Middlebrook Mushrooms Unlimited Company a company incorporated in Ireland with registered number 309503 and having its registered office at Tyholland, Monaghan, Co. Monaghan;

**Compensation Rights** means all present and future rights of the Chargors to be paid or to receive compensation by reason of any compulsory acquisition, requisitioning or exercise of other compulsory powers in relation to the Mortgaged Property or any refusal, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Mortgaged Property;

**Converted Assets** means assets that were the subject of a floating charge that has now converted to a fixed charge pursuant to clause 3.4 (*Conversion of a floating charge*);

**Dangerous Substance** means any substance of whatever kind and form and in whatever combination capable of causing harm to any lifeform or the Environment (other than such substances kept at the Mortgaged Property for use in the ordinary course of business);

**Debt Document** has the meaning given to that term under the Intercreditor Agreement;

**Default Rate** means the rate set out at clause 10.4 (*Default interest*) of the Facilities Agreement;

**Delegate** means any person appointed by the Security Trustee or any Receiver appointed pursuant to the provisions of clause 12.2 (*Delegation*);

**Disposal** means:

- (a) any sale, transfer, mortgage, assignment, grant of an option over, charge, pledge, loan or other disposal of Secured Assets, or an agreement to do any of the foregoing; and/or
- (b) entering into any transaction (including a derivative transaction) having an economic effect similar to any of the types of disposal described in sub-paragraph (a) above;

and **dispose** and shall be construed accordingly;



**Dispute** means any suit, action, proceedings and/or any dispute or difference which may arise out of or in connection with or which may relate in any way to this Deed (including but not limited to any suit, action, proceedings, dispute or difference relating to the formation, interpretation or performance of this Deed) or any dispute arising out of any non-contractual obligations of any nature arising between the parties or any of them;

**Enforcement Event** means the occurrence of an Event of Default;

**Environment** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

**Environmental Claim** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

**Environmental Law** means any applicable law, regulation or other requirement having legal effect which relates to:

- (a) the pollution or protection of the Environment;
- (b) harm to or the protection of human health;
- (c) harm to or the protection of the health of flora, fauna or other living organism;
- (d) the conditions of the workplace or worker's health and safety;
- (e) planning, development or building control; or
- (f) any emission or substance capable of causing harm to any living organism or the environment.

**Event of Default** means any event or circumstances specified as an Event of Default under the Facilities Agreement;

**Facilities Agreement** means the facilities agreement dated 26 November 2021, as amended and restated by the amendment and restatement agreement dated 1 June 2022 and further amended pursuant to amendment letters dated 6 December 2022 and 16 March 2023, and as further amended by the 2023 Amendment and Restatement Agreement made between, among others, the Company, the Subsidiaries listed in Part 1 of Schedule 1 thereto as Original Borrowers, the Subsidiaries listed in Part 2 of Schedule 1 thereto as Original Guarantors, The Governor and Company of the Bank of Ireland as Arranger, the Security Trustee and the Financial Institutions listed in Part 3 of Schedule 1 thereto as Original Lenders;

**Insurances** means all insurance policies now or at any time in the future taken out by the Chargors in respect of the Secured Assets (whether pursuant to the covenants contained in these Deed or otherwise) and all monies including returns of premium from time to time payable in respect of such Insurances and the benefit of all options, rights and claims devolving under or pursuant to such Insurances, including without limitation, the Insurances specified in Schedule 3Part 2 (Insurances);

**Insurance Proceeds** has the meaning given to that term in the Facilities Agreement;

**Intellectual Property** means any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered and all rights or forms of protection having equivalent or similar effect anywhere in the world in which a Chargor may from time to time have an interest and includes, without limitation, such Intellectual Property as specified in Schedule 3Part 3 (*Intellectual Property*);

**Intercreditor Agreement** has the meaning given to that term in the Facilities Agreement;

**Lease** means any lease, licence, agreement for lease, agreement for licence and other agreement for the occupation, possession or use of the whole or any part or parts of the Mortgaged Property subject to which the interest of a Chargor in the Mortgaged Property is now or from time to time in the future held and includes, without limitation, the Leases specified in Schedule 3Part 8 (*Leases*);

**Legal Reservations** has the meaning given to that term in the Facilities Agreement;

**Lessee** means a lessee, sub-lessee, tenant, licensee or any other party having a right of occupation under a Lease;

**Material Adverse Effect** has the meaning given to that term in the Facilities Agreement;

**Material Contracts** means the contracts, agreements and/or licences specified in Schedule 3Part 4 (*Material Contracts*) and any other contract from time to time designated in writing as a Material Contract by the Security Trustee together with all rights, title, interest in and to all proceeds, claims, rights of action and remedies arising from the Material Contracts as the same may be amended, restated, substituted, supplemented or otherwise modified or replaced from time to time;

**Mortgaged Property** means the freehold land and/or leasehold (registered or unregistered) land specified against its name in Schedule 3Part 7 (*Mortgaged Property*) together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon, all easements, rights and agreements and the benefit of all covenants given in respect thereof;

**Original Debenture** means the debenture dated 29 November 2021 made between the Chargors listed therein and the Security Trustee;

**Party** means a party to this Deed;

**Planning Acts** means The Planning (Hazardous Substances) Act 1990, The Planning (Listed Building and Conservation Areas) Act 1990, The Planning (Consequential Provisions) Act 1990, The Local Government Planning and Land Act 1980, the Town & Country Planning Act 1990 and The Planning and Compensation Act 1991 and any re-enactment, variation or modification of any of them and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Acts or any of them;

**Plant and Equipment** means

- (a) the plant, machinery, equipment, goods, chattels and other assets specified in Schedule 3Part 6 (*Plant and Equipment*); and
- (b) all other plant, machinery, equipment, goods and chattels (including stock in trade) now or hereafter belonging to a Chargor together with all and any machines, equipment, goods, components, parts or other items whatsoever from time to time installed therein or used in replacement or by way of substitution for all or any part thereof, together with the full benefit of the insurances on the same;

**Proceedings** means suits, actions or proceedings arising out of or in connection with or relating in any way to this Deed or any dispute arising out of any non-contractual obligations of any nature arising between the

parties or any of them (including but not limited to any suits, actions or proceedings relating to the formation, interpretation or performance of this Deed);

**Receivables** mean all present and future book debts and other debts, Rent, sales proceeds, revenues, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to the Chargors (whether actual or contingent and whether arising under contract or in any other manner whatsoever) including:

- (a) the benefit of all rights, guarantees, encumbrances and remedies relating to any of the foregoing (including without limitation, negotiable and non-negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid seller's liens and similar associated rights);
- (b) all things in action which may give rise to a debt, revenue or claim and all other rights and remedies of whatever nature in respect of the same; and
- (c) all proceeds of any of the foregoing;

**Receiver** means any receiver and/or receiver and manager appointed by the Security Trustee (whether pursuant to this Deed or otherwise) in respect of a Chargor or over all or any part of the Secured Assets;

**Related Rights** mean, in relation to the Charged Securities:

- (a) all dividends, distributions, interest and other income paid or payable on the relevant Charged Securities or any asset referred to in (b) below;
- (b) all rights, monies, benefits or property accruing or offered at any time in relation to the Charged Securities whether by way of conversion, redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
- (c) all rights relating to any Charged Securities which are deposited with, or registered in the name of, any depositary, custodian, nominee, clearing house or system, investment manager, lender or other similar person or their nominee, in each case whether or not on a fungible basis (including rights against any such person); and
- (d) all other rights attaching or relating to any Charged Securities and all cash or other securities or investments in the future deriving from the Charged Securities or such rights;

**Remedial Works** means

- (a) any investigation, inspection, sampling or monitoring works; or
- (b) any works, steps or measures to treat, abate, remove, remedy, contain, control, manage or ameliorate the presence or actual or potential effect of any Dangerous Substance or any harm to the Environment or human health or pollution of the Environment;

**Rent** means the aggregate of present and future amounts payable to or for the benefit of the Chargors pursuant to the terms of the Leases from time to time as a fee for occupying the area demised and includes each of the following amounts:-

- (a) all rentals, fees and other amounts payable by Lessees under the Leases;
- (b) any sum received from any rent deposit which is not refundable and is held as security for performance of any Lessee's obligations under a Lease;
- (c) any other monies payable to the Chargors in respect of occupation and/or use of the Mortgaged Property (or any part of the Mortgaged Property) and every fixture and fitting on the Mortgaged Property including fixtures and fittings for display or advertisement on licence or otherwise;

- (d) any mesne profits, damages, compensation, settlement or expenses for or in respect of any period of occupation of the Mortgaged Property (or any part thereof) whether or not pursuant to a Lease or representing loss of rent or interest awarded or agreed to be payable as a result of any proceedings taken or claims made for the same, net of any costs, fees and expenses paid or payable (and which have not been reimbursed to and which are not recoverable by the Chargors) in furtherance of such proceedings taken or claims made;
- (e) costs, fees and expenses deducted from the amounts referred to in (d) above to the extent that such costs, fees and expenses are subsequently recovered by the Chargors;
- (f) any monies payable under any policy of insurance in respect of loss of rent or interest thereon;
- (g) any sum payable or the value of any consideration to be given by or on behalf of a Lessee for the surrender or variation of any Lease;
- (h) any sum payable by any guarantor or indemnifier of any Lessee under any Lease which would qualify as Rent for the purpose of this definition; and
- (i) any interest payable on any sum referred to above;

**Secured Assets** mean all the assets of the Chargors which are the subject of the Security and **Secured Asset** means any secured asset;

**Secured Parties** has the meaning given to that term in the Intercreditor Agreement;

**Secured Obligations** means all present and future obligations and liabilities (including in respect of principal, interest, break-costs, discount, commission, fees and expenses) of the Debtors (as defined in the Intercreditor Agreement) to the Secured Parties, actual or contingent, in any currency, whether owed jointly or severally, whether as principal or as surety or in any other capacity whatsoever under or in connection with the Debt Documents (including without limitation, any hedging agreement or arrangement whether or not documented) or upon breach thereof and any reference to Secured Obligations means a reference to any of them;

**Security** means the security constituted or intended to be constituted by this Deed;

**Security Interest** means any mortgage, charge (fixed or floating), pledge, lien, assignment, hypothecation, retention of title, flawed asset agreement, preferential right, trust arrangement or any security interest whatsoever or any other agreement or arrangement having the effect of conferring security, a priority of payment or a disposition contrary to the provisions of this Deed, howsoever created or arising;

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and the Secured Parties are under no further commitment, obligation or liability (actual or contingent) to the Chargors or under or pursuant to the Debt Documents or if earlier, the date upon which all of the Security shall have been unconditionally and irrevocably released and discharged;

**Specified Mortgage Property** means the Mortgaged Properties listed at 1-3 of Schedule 3Part 7 (*Mortgaged Property*);

**Taxes** means all forms of taxation, duties, imposts and levies whether of England and Wales or elsewhere, including (but without limitation) income tax, corporation tax, corporation profits tax, advance corporation tax, capital gains tax, capital acquisitions tax, residential property tax, wealth tax, value added tax, dividend withholding tax, deposit interest retention tax, customs and other import and export duties, excise duties, stamp duty, capital duty, social insurance, social welfare or other similar contributions and other amounts corresponding thereto whether payable in England or Wales or elsewhere, and any interest, surcharge, penalty or fine in connection therewith, and the word **taxation** shall be construed accordingly; and

**Unblocked Account** means any Account other than a Blocked Account.

## **1.2 Construction**

- 1.2.1 The provisions of clause 1.2 (*Construction*) of the Original Debenture apply to this Deed as if they were set out in full in this Deed except that each reference in that clause to the Original Debenture shall be read as a reference to this Deed.
- 1.2.2 This Deed is supplemental to the Original Debenture. The Original Debenture and the security thereby constituted shall continue in full force and effect notwithstanding this Deed.
- 1.2.3 All the security created under this Deed is created in addition to and does not affect the security created by the Original Debenture.
- 1.2.4 Where this Deed purports to create first ranking Security, that Security will be a second ranking security interest ranking subject to the equivalent Security created by the Original Debenture and until such time as the Security created by the Original Debenture ceases to have effect.
- 1.2.5 Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Original Debenture and the same asset or right is purported to be assigned (subject to a proviso for re-assignment on redemption) again under this Deed, that second assignment will take effect as a fixed charge over all of its rights, title, benefit and interest (present and future) in, to and in respect of, such right or asset and will only take effect as an assignment if the relevant security interest created by the Original Debenture ceases to have effect at a time when this Deed still has effect.
- 1.2.6 To the extent that any past, present or future obligation contained within the Original Debenture would constitute a breach of this Deed, the Security Trustee hereby unconditionally and irrevocably waives its rights under this Deed in respect of such breach.

## **2 PAYMENT PROVISIONS**

### **2.1 Covenant to Pay**

The Chargors hereby covenant in favour of the Security Trustee that they will pay and discharge the Secured Obligations when they are due in accordance with the terms of the relevant Debt Document

### **2.2 Default Interest**

- 2.2.1 The Chargors hereby covenant in favour of the Security Trustee to pay interest on the Secured Obligations (both before and after judgment) from the date of demand to the date of payment calculated on a daily basis at the rate and in the manner agreed in writing between the Chargors and the Security Trustee in the Facilities Agreement and in the absence of such agreement, at the Default Rate.
- 2.2.2 Default interest shall accrue from day to day and will be compounded at such intervals as set out in the Facilities Agreement or in the absence of any such agreement, shall be decided by the Security Trustee acting in its sole discretion.

### **2.3 Payment free of deduction**

All payments to be made under this Deed by the Chargors shall be made free and clear of and without deduction for or on account of any set-off or counterclaim or any present or future Taxes, levies, imposts, charges, deductions or withholdings of any nature whatsoever. If the Chargors shall be compelled by law to make any deduction or withholding from any payment to the Security Trustee, the amount of the payment due from the Chargors shall be increased to the extent necessary to ensure that, after the making of such

deduction or withholding, the Security Trustee receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## 2.4 Evidence and calculation

Any certificate or determination by the Security Trustee of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 3 CHARGING PROVISIONS

### 3.1 Fixed Charges

Each Chargor, with full title guarantee to the intent that the charges contained in this Deed will be a continuing security for the payment and discharge of the Secured Obligations in favour of the Security Trustee, hereby:

- 3.1.1 **CHARGES** as a first fixed charge, and in the case of registered land as registered owner or as the person entitled to be registered as owner, the Mortgaged Property with the payment, performance and discharge of the Secured Obligations and **HEREBY ASSENTS** to the registration of the charge as a burden on the said property;
- 3.1.2 **CHARGES** as a first fixed charge all other (if any) freehold and leasehold property of the Chargor now vested in it (whether or not registered), together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon;
- 3.1.3 **CHARGES** as a first fixed charge all future freehold and leasehold property, together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon, other than leasehold property in respect of which the consent of a lessor is required for such charge;
- 3.1.4 **CHARGES** as a first fixed charge, all present and future Ancillary Rights and Compensation Rights of the Chargor;
- 3.1.5 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Plant and Equipment;
- 3.1.6 **CHARGES** as a first fixed charge, the Charged Securities together with all Related Rights;
- 3.1.7 **CHARGES** as a first fixed charge, the Accounts together with all monies at any time standing to the credit of the Accounts and all interest and other rights accruing or arising in connection with such Accounts or monies;
- 3.1.8 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the uncalled capital of the Chargor and all rights and claims to which the Chargor is now or may hereafter become entitled as a result of any calls made in relation thereto;
- 3.1.9 **CHARGES** as a first fixed charge, all goodwill, now or in the future belonging to the Chargor;
- 3.1.10 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Intellectual Property;
- 3.1.11 **CHARGES** as a first fixed charge, the Material Contracts;
- 3.1.12 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Insurances and the Insurance Proceeds;
- 3.1.13 **CHARGES** as a first fixed charge, the Receivables; and

3.1.14 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Leases.

### 3.2 **Security assignments**

3.2.1 Each Chargor, with full title guarantee and as security for the payment and discharge of the Secured Obligations in favour of the Security Trustee, hereby **ASSIGNS** and agrees to **ASSIGN** absolutely (in each case insofar as the same are capable of assignment):

- (a) the Material Contracts;
- (b) the Insurances and the Insurance Proceeds;
- (c) the Intellectual Property;
- (d) the Accounts together with all monies at any time standing to the credit of the Accounts and all interest and other rights accruing or arising in connection with such Accounts or monies;
- (e) the Leases;
- (f) the Receivables;
- (g) the benefit of all Ancillary Rights; and
- (h) any bill of exchange or other negotiable instrument held by it,

subject in each case to the right of such Chargor to redeem this Deed as contained in clause 20 (*Release of security*).

3.2.2 If any of the Secured Assets over which a Chargor purports to create an assignment pursuant to this clause 3.2 is not effectively assigned, that Chargor instead charges by way of first fixed charge in favour of the Security Trustee all of its rights, title, benefit and interest (present and future) in, to and in respect of, such Secured Assets.

### 3.3 **Floating charge**

3.3.1 Each Chargor hereby charges unto the Security Trustee by way of first floating charge, all of its assets and undertaking whatsoever and wheresoever, both present and future and the property and assets referred to in clauses 3.1 (*Fixed charges*) and 3.2 (*Security assignments*) above (if and in so far as such mortgages, charges and/or assignments in this Deed shall be ineffective as fixed charges/security assignments).

3.3.2 This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

### 3.4 **Conversion of a floating charge**

#### 3.4.1 ***Conversion by notice***

The Security Trustee may, by notice in writing to the Chargors, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargors if:

- (a) an Enforcement Event has occurred;
- (b) the Security Trustee considers, in good faith, that the Secured Assets (or any of them) are in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or

- (c) the Security Trustee considers such conversion to be necessary or desirable to protect the priority of the Security;

and such fixed charge shall apply to all assets the subject of the floating charge as specified in the notice.

#### 3.4.2 ***Automatic conversion***

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge (without notice) as regards all assets which are subject to the floating charge if:

- (a) the Chargors create (or attempts or purports to create) any Security Interest on or over any of the Secured Assets without the prior written consent in writing of the Security Trustee;
- (b) any person levies or attempts to levy any distress, execution, sequestration, attachment or other legal process against the Secured Assets (or any of them);
- (c) if a receiver and/or receiver and manager is appointed over a Chargor or any of that Chargor's assets;
- (d) if a petition is presented for the appointment of a liquidator, administrator or other analogous insolvency official to the Chargor, or the protection of the court is sought by a Chargor;
- (e) if any meeting of the directors or members of a Chargor is convened for the purposes of considering any resolution for its winding-up or liquidation or for appointing an administrator to a Chargor or other analogous insolvency procedure or with a view to a composition, assignment or arrangement with its creditors generally (or any class of its creditors) or any meeting is convened for the purposes of considering any event similar or analogous to the foregoing and such a resolution is passed; or
- (f) if a Chargor ceases to carry on business as a going concern.

#### 3.4.3 ***Partial conversion***

The giving of notice by the Security Trustee pursuant to clause 3.4.1 (*Conversion by notice*) in relation to any assets of a Chargor shall not be construed as a waiver or abandonment of the rights of the Security Trustee to serve similar notices in respect of any other assets or of any of the other rights of the Security Trustee.

#### 3.4.4 ***Treatment of floating charge assets post conversion***

The Chargors undertake to the Security Trustee that, following the occurrence of any of the events set out in this clause 3.4 (*Conversion of a floating charge*), they:

- (a) shall not sell, transfer, convey, lease, licence, assign (or enter into any agreement in connection thereto) or otherwise deal with or dispose of the Converted Assets;
- (b) shall deliver as soon as possible to the Security Trustee or otherwise as agreed with the Security Trustee in writing, such information as the Security Trustee shall require to identify the Converted Assets including, for the avoidance of doubt, a full description (including serial/identification numbers in respect of plant and equipment and other tangible assets, account numbers, contract details etc) of all of the assets comprised in the Converted Assets; and



- (c) shall deliver as soon as possible to the Security Trustee or otherwise as agreed with the Security Trustee in writing, all documents of title relating to such Converted Assets.

### 3.5 Perfection of security

#### 3.5.1 **Material Contracts, Insurances, Accounts**

Immediately upon execution of this Deed or, if later, on the date of designation of a Material Contract, entry into of Insurances or opening of an Account (as applicable), the Chargors shall deliver to the Security Trustee or procure the delivery to the Security Trustee, of a notice:

- (a) in respect of each Material Contract, in the form set out in Schedule 4, Part 1 (*Form of Notice of Assignment of Material Contracts and Acknowledgement*) duly executed by the Chargors or on their behalf and shall use all reasonable endeavours to procure that such notice is acknowledged in the form set out in Schedule 4, Part 2 (*Form of Notice of Assignment of Material Contracts and Acknowledgement*) (or in such other form as the Security Trustee may agree) by each relevant party to the Material Contract;
- (b) in respect of each of the Insurances, in the form set out in Schedule 5, Part 1 (*Form of Notice of Assignment of Insurances and Acknowledgement*) duly executed by the Chargors or on their behalf and shall use all reasonable endeavours to procure that such notice is acknowledged in the form set out in Schedule 5 Part 2 (*Form of Notice of Assignment of Insurances and Acknowledgement*) (or in such other form as the Security Trustee may agree) by the relevant insurer;
- (c) in respect of each Blocked Accounts, in the form set out in Schedule 6 Part 1 (*Form of Notice of Assignment of Blocked Account and Acknowledgement*) duly executed by the Chargors or on their behalf and shall use all reasonable endeavours to procure that such notice is acknowledged in the form set out in Schedule 6 Part 1 (*Form of Notice of Assignment of Blocked Account and Acknowledgement*) (or in such other form as the Security Trustee may agree) by the relevant Account Bank;
- (d) in respect of each Unblocked Accounts, in the form set out in Schedule 7 Part 1 (*Form of Notice of Assignment of Unblocked Account and Acknowledgement*) duly executed by the Chargors or on their behalf and shall use all reasonable endeavours to procure that such notice is acknowledged in the form set out in Schedule 7 Part 1 (*Form of Notice of Assignment of Unblocked Account and Acknowledgement*) (or in such other form as the Security Trustee may agree) by the relevant Account Bank;
- (e) provided that, where the relevant Chargor has delivered a notice and/or acknowledgement (as applicable) in respect of a Material Contract, Insurances, Blocked Account or Unblocked Account (as applicable) under the Original Debenture, it shall not be required to do so in respect of the same Material Contract, Insurances, Blocked Account or Unblocked Account (as applicable) under this Deed unless requested by the Security Trustee.

#### 3.5.2 **Charged Securities**

Except to the extent the Security Trustee already holds and retains all documents required to be delivered under paragraphs (a) to (e) below (including where such documents are held on behalf of the Security Trustee), each Chargor hereby covenants and undertakes to deliver to the Security Trustee, on the date of execution of this Deed, or if later, on the date of acquisition by the Chargor of any Charged Security:

- (a) an undated stock transfer form (executed in blank by or on behalf of the Chargor) in respect of such Charged Securities;

- (b) all share certificates, warrants and other documents of title representing such Charged Securities (including in the case of any Charged Securities which are not in the sole name of the Chargor, a declaration of trust in respect of the interest of the Chargor in such Charged Securities executed by each nominee);
- (c) a certified copy of the up to date register of members of the relevant company to which the Charged Securities relate;
- (d) executed but undated letters of resignation and release from each of the directors, alternate directors and secretary of the relevant company to which the Charged Securities relate appointed by the Chargor in the forms set out in Schedule 8, Part 2 to this Deed; and
- (e) duly passed shareholders resolutions to amend the articles of association of the relevant company to ensure that during the Security Period, the directors of the relevant company shall not have the power to refuse to register a transfer of the Charged Securities in that company to the Security Trustee or its nominee in accordance with this Deed.

### 3.5.3 ***Mortgaged Property***

Except to the extent the Security Trustee already holds and retains all documents required to be delivered under this clause 3.5.3 (including where such documents are held on behalf of the Security Trustee), each Chargor hereby covenants and undertakes to deposit with the Security Trustee, on the date of execution of this Deed, or if later and if agreed by the Security Trustee, on the date of acquisition by the Chargor of any Mortgaged Property, all deeds, certificates and other documents constituting or evidencing title to the Specified Mortgaged Property.

### 3.5.4 ***Accounts***

Each Chargor covenants and undertakes with the Security Trustee that during the Security Period the Chargor shall promptly deliver to the Security Trustee on the date of this Deed (and, if any material change occurs thereafter, promptly after the date of such change), details of each Account maintained by it with an Account Bank (other than the Security Trustee).

### 3.5.5 ***Acknowledgement***

Each Chargor by its execution of this Deed hereby confirms and acknowledges that this Deed constitutes notice to, and acknowledgement by, that Chargor (in each case on the terms set out in the relevant schedule to this Deed) of the Security over the relevant Secured Assets created by each other Chargor.

## 4 **CONTINUING SECURITY**

### 4.1 **Continuing security**

- 4.1.1 The Security is a continuing security and will extend to the ultimate balance of the Secured Obligations until released or discharged by the Security Trustee in accordance with the terms of this Deed.
- 4.1.2 The Security will not be considered satisfied or discharged by any intermediate repayment or satisfaction of all or any part of the Secured Obligations.
- 4.1.3 If upon final repayment and satisfaction of the Secured Obligations there shall exist any right on the part of the Chargor or any other person to draw funds or otherwise which, if exercised, would or might cause the Chargor to become actually or contingently liable to the Security Trustee, whether as principal debtor or as surety for another person, then the Security Trustee will be entitled to retain

the Security and all rights, remedies and powers conferred by this Deed and the Secured Assets for so long as shall or might be necessary to secure the discharge of such actual or contingent liability.

#### **4.2 Additional security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which the Security Trustee may at any time hold for any of the Secured Obligations.

#### **4.3 Right to enforce**

This Deed may be enforced against the Chargors without the Security Trustee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it, irrespective of any law or any provision of this Deed to the contrary.

#### **4.4 Waiver of defences**

The obligations of the Chargors under this Deed and the Security shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such obligations, in whole or in part, including without limitation, and whether or not known to or discoverable by the Chargors, the Security Trustee or any other person:

- 4.4.1 any time, indulgence or waiver granted to or composition with any person whatsoever;
- 4.4.2 the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against or granted by any person whatsoever;
- 4.4.3 any legal limitation, disability, incapacity or other circumstances relating to any such party or any other person;
- 4.4.4 any amendment, novation, supplement, variation, restatement, replacement of or extension (in each case however fundamental and of whatsoever nature and whether or not more onerous) of any term of this Deed or any other Debt Document or any increase in the Secured Obligations to the intent that this Deed shall apply to such term as varied or in respect of the extended due date or such increase;
- 4.4.5 any judgment obtained against the Chargor;
- 4.4.6 the dissolution, liquidation, examinership, amalgamation, reconstruction or reorganisation of the Chargors, the Company or any other person; or
- 4.4.7 any irregularity, unenforceability, invalidity or frustration of any obligations of any person whatsoever under any agreement or any other document or security, or any present or future law or order of any government or authority purporting to produce or otherwise effect any such obligations, to the intent that this Deed shall remain in full force and be construed accordingly as if there were no such irregularity, unenforceability, invalidity, frustration, law or order.

#### **4.5 No competition**

Until the Secured Obligations have been unconditionally and irrevocably satisfied and discharged in full to the satisfaction of the Security Trustee, the Chargors shall not by virtue of any payment made hereunder on account of the Secured Obligations or by virtue of any enforcement by the Security Trustee of its rights under this Deed or the Security:

- 4.5.1 exercise any rights of subrogation in relation to any rights, security or moneys held or received or receivable by the Security Trustee or any person;

- 4.5.2 exercise any right of contribution or indemnity from any co-surety liable in respect of such moneys and liabilities under any other guarantee, security or agreement;
- 4.5.3 exercise any right of set-off or counterclaim against the Borrower or any co-surety;
- 4.5.4 receive, claim or have the benefit of any payment, distribution, security or indemnity from the Borrower or any such co-surety; or
- 4.5.5 claim, rank, prove or vote as a creditor of the Borrower or any such co-surety in competition with the Security Trustee.

The Chargors will hold in trust for and forthwith pay or transfer to the Security Trustee any payment or distribution or benefit of security received by it contrary to the above. If the Chargors exercise any right of set-off contrary to the above, it will forthwith pay an amount equal to the amount set-off to the Security Trustee.

## 5 REPRESENTATIONS AND WARRANTIES

- 5.1 In addition to any representation and warranties made by the Chargors pursuant to this Deed, each Chargor makes the representations and warranties made by it pursuant to the terms of the Facilities Agreement in accordance with the terms of the Facilities Agreement as if such representations and warranties were set out in full herein mutatis mutandis to the Security Trustee.

### 5.2 Nature of security

Each Chargor represents and warrants to the Security Trustee that:

- 5.2.1 it is a separate legal entity capable of suing and being sued;
- 5.2.2 all authorisations, approvals or other action by, and notice to or filing with, any governmental or regulatory authority or regulatory body as required for the entry into and performance of this Deed, have been obtained and are in full force and effect;
- 5.2.3 the execution of this Deed, the creation of the Security or the performance by the Chargor of its obligations hereunder will not contravene its constitutional documents, any applicable law or regulation or any agreement to which the Chargor is a party or which is binding on the Chargor or the Secured Assets;
- 5.2.4 it is and will at all times during the Security Period, be the sole lawful and beneficial owner of the Secured Assets;
- 5.2.5 on the date of execution of this Deed and on each date hereafter until the Security is released by the Security Trustee, the Secured Assets are free from any mortgage, charge or any other Security Interest (save for those created pursuant to this Deed) and constitutes a first priority Security Interest over the Secured Assets enforceable against the Chargor, and the Chargor's creditors;
- 5.2.6 its obligations under this Deed rank and will rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally;
- 5.2.7 it is able to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any analogous legislation at the time of entering into this Deed and remains able to pay its debts and did not become unable to pay its debts as a consequence of entering into this Deed;
- 5.2.8 it has not taken any corporate action nor have any other steps been taken or legal proceedings been instituted or (to the best of its knowledge and belief having made all reasonable enquiries)

threatened against it for its winding up or re-organisation or to appoint an examiner or receiver or any such analogous steps in relation to it or any of its assets; and

- 5.2.9 there is no litigation, arbitration, insolvency or other proceeding is taking place, pending, or, to its knowledge, threatened against it or any of its assets the effect of which would be reasonably likely to have a Material Adverse Effect.

### **5.3 Charged Securities**

Each Chargor represents and warrants to the Security Trustee that:

- 5.3.1 the Charged Securities are duly authorised, validly issued and fully paid and constitute all of the issued share capital owned by the Chargor of the relevant company;
- 5.3.2 it is the sole legal and beneficial owner of the Charged Securities and all Related Rights (save for any Charged Securities that are specified in Schedule 3 Part 5 to this Deed as being held by a nominee on its behalf) and that the Charged Securities listed in Schedule 3 Part 5 constitute the entire share capital owned by the Chargor in the relevant company as at the date of this Deed;
- 5.3.3 the constitutional documents of each company to which the Charged Securities relate do not and could not restrict or inhibit any transfer of the Charged Securities on creation or enforcement of the Security and the directors of that company cannot refuse to register any transfer of the Charged Securities to the Security Trustee or any nominee of the Security Trustee;
- 5.3.4 there are no agreements in place which provide for the issue or allotment of, or grant to any person the right to call for the issue or allotment of, any share or loan capital of the relevant company to which the Charged Securities relate (including any option or right of pre-emption or conversion); and
- 5.3.5 no calls have been made in respect of the Charged Securities and remain unpaid and no calls can be made in respect of such Charged Securities in the future.

### **5.4 Material Contracts**

Each Chargor represents and warrants to the Security Trustee that:

- 5.4.1 it has obtained all approvals and consents from the contractual parties to the Material Contracts which are necessary for it to enter into this Deed and the entry into this Deed does not and will not breach any provisions of its Material Contracts; and
- 5.4.2 it is not in default of any of its obligations under any Material Contract nor has it received or given a notice or intimation of termination, rescission, suspension or breach in respect of any Material Contract.

### **5.5 Intellectual Property**

Each Chargor represents and warrants to the Security Trustee that:

- 5.5.1 it is the sole legal and beneficial owner of the Intellectual Property and it does not have any rights to any other Intellectual Property other than as disclosed under this Deed;
- 5.5.2 all applications, fees, costs and charges relating to the Intellectual Property have been paid and are up to date; and
- 5.5.3 no licence to use any of the Intellectual Property have been given to any third party.

## 5.6 Real Property

Each Chargor represents and warrants to the Security Trustee that:

- 5.6.1 it is the legal and beneficial owner of all of the Mortgaged Property specified in Schedule 3 Part 7 (*Mortgaged Property*);
- 5.6.2 the Mortgaged Property is free from any Security Interest (save for those created by or pursuant to this Deed);
- 5.6.3 there are no covenants, agreements, stipulations, reservations, conditions or other matters whatsoever affecting all or any part of the Mortgaged Property;
- 5.6.4 it has obtained all consents including the consent of any landlord or superior landlord (as required) under any lease or agreement for lease under which the Mortgaged Property is held to ensure that no other party to any agreement entered into by the Chargor becomes entitled to terminate such agreement or arrangement as a result of the Chargor entering into this Deed;
- 5.6.5 they are performing all the terms on their part contained in any lease, agreement for lease, licence or other agreement which gives the Security Trustee a right to occupy or use property comprised in the Mortgaged Property and is not doing or allowing to be done any act as a result of which any lease under which they hold any Mortgaged Property may become liable to forfeiture or otherwise be terminated; and
- 5.6.6 save as may have been disclosed to the Security Trustee in writing prior to the date of this Deed, the Chargor has not, prior to the date of this Deed carried out or permitted to be carried out any development within the meaning of the Planning Acts upon the Mortgaged Property in respect of which any requisite permission has not been obtained and that all conditions subject to which such permissions have been granted have been duly complied with.

## 5.7 Environmental laws

Each Chargor represents and warrants to the Security Trustee that:

- 5.7.1 other than is set out in the Financial Due Diligence Report, it has complied with all Environmental Laws to which it may be subject and has obtained all Environmental Licences required or desirable in connection with its business and has complied with the terms of such Environmental Licences; and
- 5.7.2 other than is set out in the Financial Due Diligence Report, there is no Environmental Claim pending or threatened against it and to the best of its knowledge, information and belief having made all reasonable enquiries there are no past or present acts, omissions, events or circumstances which could form the basis of any Environmental Claim against it.

## 5.8 Repetition

- 5.8.1 The representations and warranties set out in this clause 5 (*Representations and Warranties*) shall be given on the date of this Deed and shall be deemed repeated on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period other than those representations and warranties set out in clause 5.3 (*Charged Securities*), clause 5.5 (*Intellectual Property*) and clause 5.7 (*Environmental laws*).
- 5.8.2 When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the facts and circumstances existing at the time of repetition.

## 6 UNDERTAKINGS

The undertakings in this clause 6 remain in force for the duration of the Security Period.

### 6.1 Negative pledge

6.1.1 The Chargors will not do or agree to do any of the following without the prior written consent of the Security Trustee or as permitted under the Facilities Agreement:

- (a) create or permit to subsist any Security Interest on any of the Secured Assets (other than a lien arising in the ordinary and usual course of business by operation of law provided any such lien is discharged within 60 days after it arises unless being contested in good faith and by appropriate proceedings); or
- (b) sell, transfer, lease, licence, lend or otherwise Dispose of all or any part of its interest in the Secured Assets.

6.1.2 The foregoing provisions of this clause 6.1 (*Negative pledge*) shall not be construed as limiting any powers exercisable by any Receiver appointed by the Security Trustee under or pursuant to this Deed.

### 6.2 Secured Assets generally

Each Chargor covenants and undertakes to the Security Trustee that at all times during the continuance of the Security that each Chargor will:

#### 6.2.1 General compliance

- (a) conduct and carry on its business in a proper and efficient manner and procure that no substantial change is made to the general nature of the business of the Chargor taken as a whole from that carried on at the date of this Deed;
- (b) comply with and observe all of the terms, conditions and obligations in relation to the Secured Assets under any present or future law, regulation, license or consent and to comply with all covenants and obligations affecting any of the Secured Assets;
- (c) comply and observe all terms and conditions of the Debt Documents and of all other contracts, agreements and security to which it is a party relating to the Secured Assets;
- (d) not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value (whether monetary or otherwise) or marketability of the Secured Assets (or any of them);
- (e) not take any action which would cause any of the representations made in clause 5 (*Representations and Warranties*) to be untrue or incorrect in any respect during the Security Period;
- (f) not enter into any onerous or restrictive covenants or obligations affecting any part of the Secured Assets;
- (g) not take any corporate action or other steps or legal proceedings for the winding up or re-organisation of the any company to which any Charged Securities relate or to appoint an Examiner or receiver or any such analogous steps in relation to such company in any jurisdiction.

#### 6.2.2 **Information**

at the cost of the Chargor, provide the Security Trustee with such information relating to the business of the Chargor and the Secured Assets as the Security Trustee may reasonably request from time to time.

#### 6.2.3 **Repair**

maintain the Secured Assets in good and substantial repair and condition and in good working order (ordinary wear and tear excepted);

#### 6.2.4 **Inspection**

permit any person authorised by the Security Trustee free access at all reasonable times to view the state and condition of the Secured Assets without becoming liable to account as mortgagee in possession;

#### 6.2.5 **Pay outgoings**

pay all rents, rates, Taxes, assessments, impositions and outgoings whatsoever, whether governmental, municipal or otherwise as may be imposed upon or payable in respect of the Secured Assets as and when they shall become payable and on demand, produce the receipt for such payments;

#### 6.2.6 **VAT**

ensure that all value added tax (within the meaning of the Value Added Tax Act, 1994 and any subsequent re-enactment, modification or amendment thereof) liabilities which if unpaid would or might with the service of any notice or otherwise have priority over the security hereby created or require payment by the Security Trustee shall be paid and discharged when the same must be paid;

#### 6.2.7 **Notice**

immediately notify the Security Trustee in writing of the occurrence of any Event of Default or of the occurrence of any event which with the lapse of time, giving of notice or determination of materiality (or any combination of the foregoing) will or may constitute an Event of Default.

### 6.3 **Insurances**

#### 6.3.1 **Undertakings**

Each Chargor covenants and undertakes to the Security Trustee that at all times during the continuance of the Security Period that the Chargor will:

- (a) comply with the provisions of 24.28 (*Insurance*) of the Facilities Agreement with respect to the Secured Assets; and
- (b) upon execution of this Deed, deliver to the Security Trustee all policies or cover notes (including renewal cover notes or new policies) or other evidence acceptable to the Security Trustee of the Insurance required to be maintained in accordance with the provisions of this clause.

#### 6.3.2 **Application of Insurance Proceeds**

- (a) All Insurance Proceeds shall (subject to the rights and claims of any person having prior rights to such monies), prior to the occurrence of an Event of Default be applied in a manner permitted by the Debt Documents.



- (b) After the occurrence of an Event of Default, the Chargor shall hold such monies upon trust for the Security Trustee pending payment to the Security Trustee for application in accordance with clause 9 (*Application of proceeds*) and the Chargors waive any right they may have to require that any such monies are applied in reinstatement of any part of the Secured Assets.

#### 6.3.3 **Default**

If the Chargors default in complying with clause 6.3.1 (*Insurances – Undertakings*), the Security Trustee may effect or renew any Insurances on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies expended by the Security Trustee in doing so shall be reimbursed by the Chargors to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until reimbursed at the Default Rate.

### 6.4 **Real Property undertakings**

Each Chargor covenants and undertakes to the Security Trustee that at all times during the continuance of the Security that the Chargor will:

#### 6.4.1 **Protection of Mortgaged Property**

not, without the previous consent in writing of the Security Trustee, remove or destroy any of the buildings, plant, machinery, fixtures, fittings, vehicles, computers and office and other equipment or any structure whatsoever now or in the future owned by the Chargor unless that property is worn out or rendered unfit for use or unless such removal or destruction shall be with a view immediately to replacing that property by other property of a more useful or convenient character and of at least equal value or utility.

#### 6.4.2 **Compliance with covenants**

- (a) do, observe and perform all its obligations and all matters and things necessary or expedient to be done, observed and performed under or by virtue of every lease, licence, agreement or other instrument relating to the Mortgaged Property and every other lease, licence and agreement to which the Chargor is party so as to preserve, protect and maintain all of the rights of the Chargor in them;
- (b) not suffer or permit any default for which any of the same may be terminated or as a result of which any party thereto may be relieved of any liability or obligation but, on the contrary, exercise and enforce from time to time all its rights and remedies;
- (c) if and when entitled to do so, renew all such leases, licences and agreements so long as the same have utility or commercial value; and
- (d) on the expiration of any such leases, licences and agreements, use its best endeavours to obtain new leases, licences or agreements as the case may be on the most favourable terms available so long as the same have utility or commercial value.

#### 6.4.3 **Not lease**

- (a) not exercise the statutory powers of leasing (reserved to a mortgagor by section 99 or 100 of the Act) or agreeing to lease or of accepting or agreeing to accept surrenders conferred by the Act without the prior written consent of the Security Trustee, such consent not to be unreasonably withheld;
- (b) not without such written consent either in the purported exercise of the said statutory powers or otherwise grant or agree to grant or accept or agree to accept a surrender of any lease, licence or tenancy of the Mortgaged Property or any part of thereof; and

- (c) not cause any person to become a protected or statutory tenant of any of the Mortgaged Property or any part of the Mortgaged Property under The Housing Act 1985 and any re-enactment, variation or modification of any of it and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Act or any of them.

#### 6.4.4 ***Planning Acts***

- (a) not carry out any development within the meaning of the Planning Acts in or upon the Mortgaged Property without first obtaining such permission as may be required under or by virtue of the Planning Acts;
- (b) within seven days after the receipt of any notice or proposal for a notice or order or proposal for an order given, issued or made to the Chargor by a planning authority under or by virtue of the Planning Acts in respect of the Mortgaged Property (or any part thereof), give full particulars of the notice, proposal or order to the Security Trustee;
- (c) if so required by the Security Trustee, produce the notice, proposal or order;
- (d) without delay take all reasonable or necessary steps to comply with such notice or order; and
- (e) at the request of the Security Trustee, make or join with the Security Trustee in making such application, appeal or representations against or in respect of any proposal for such notice or order as the Security Trustee may deem expedient.

#### 6.4.5 ***Future acquisitions***

Subject to the terms of the Facilities Agreement, promptly inform the Security Trustee upon acquiring any additional estate or interest in the Mortgaged Property or otherwise and deposit with the Security Trustee and permit the Security Trustee to retain as part of the security hereby constituted the deeds and documents of title thereof and if required by the Security Trustee, execute in favour of the Security Trustee a mortgage over same in similar form hereto with any modifications as the Security Trustee may require.

#### 6.4.6 ***Power to remedy***

In case of default by the Chargors in performing any material obligation or other covenant affecting the Mortgaged Property within a reasonable period having regard to the covenant or obligation concerned, and after the occurrence of an Enforcement Event, the Chargors shall permit the Security Trustee and contractors:

- (a) to enter on the Mortgaged Property;
- (b) to comply with or object to any notice served on the Chargors relating to the Mortgaged Property; and
- (c) to take any action the Security Trustee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice,

provided that nothing in this clause 6.4.6 (*Power to remedy*) (or otherwise in this Deed) shall entitle the Security Trustee or its contractors to any action (including any Remedial Works) relating to any notice served under or breach of any Environmental Law.

#### 6.4.7 ***Land Registry***

The Chargors shall apply to the Land Registrar for the Security to be registered and for a restriction to be entered on the Register of Title in relation to all real property situated in England and Wales

and charged by way of legal mortgage under this Deed (including any unregistered properties subject to compulsory first registration at the date of this Deed) on the prescribed Land Registry form and in the following or substantially similar terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a consent signed by the proprietor for the time being of the charge dated [ • ] in favour of The Governor and Company of the Bank of Ireland (as Security Trustee) referred to in the charges registered."

## **6.5 Material Contracts**

Each Chargor covenants and undertakes to the Security Trustee that at all times during the continuance of the Security that the Chargors will:

### **6.5.1 No amendments**

- (a) not amend, replace, supplement, waive (or agree to amend, supplement or waive) any provision of any Material Contract or exercise any right to rescind, cancel or terminate any Material Contract or release any party from any obligations under any Material Contract; and
- (b) not waive any breach by any counterparty to any Material Contract or consent to any act or omission which would otherwise constitute such a breach;

without the prior written consent of the Security Trustee;

### **6.5.2 Information**

provide the Security Trustee, as soon as practicable upon receipt, with copies of all notices and information received by it from any other party to any Material Contract;

### **6.5.3 Performance**

duly perform its obligations under each Material Contract and shall notify the Security Trustee of any default by it or any other party to a Material Contract and shall not take or omit to take any action which, in the opinion of the Security Trustee, would prejudice the value or the ability of the Security Trustee to realise the Security.

## **6.6 Charged Securities**

### **6.6.1 Undertakings**

- (a) Each Chargor hereby covenants and undertakes to the Security Trustee that, for the duration of the Security Period there shall be
  - (i) no increase or reduction in the authorised or issued share capital of the relevant company to which the Charged Securities relate;
  - (ii) no variation of the rights attaching to or conferred by the Charged Securities or any part of it;
  - (iii) no exercise, renunciation or assignment by the Chargor of any right to subscribe for any shares or securities;
  - (iv) no redemption, reconstruction, amalgamation, sale or other Disposal of the Charged Securities (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);

- (v) no appointment of any further director or officers of the relevant company to which the Charged Securities relate; and
- (vi) no alteration to the constitutive documents of the relevant company to which the Charged Securities relate,

in each case, without the prior consent in writing of the Security Trustee.

- (b) Each Chargor hereby covenants and undertakes to the Security Trustee that, for the duration of the Security Period, if any Charged Securities are in, or are converted into, uncertificated form, the Chargor shall promptly notify the Security Trustee and:
  - (i) act on any instructions given by the Security Trustee and give such directions as the Security Trustee may require in order to protect and preserve the Security Trustee's Security; and
  - (ii) transfer those Charged Securities to an escrow account in respect of which it has named as escrow agent the Security Trustee or any nominee or agent of the Security Trustee notified to the Chargor or any other person approved in writing by the Security Trustee;
- (c) Each Chargor hereby covenants and undertakes to the Security Trustee that, for the duration of the Security Period, the Chargor shall provide the Security Trustee, as soon as practicable upon receipt, with copies of all notices and information received by it from any other party in relation to the Charged Securities.

#### 6.6.2 ***Voting rights and dividends of Charged Securities***

- (a) Prior to the occurrence of an Event of Default, the Chargors shall:
  - (i) be entitled to receive and retain all dividends, distributions and other monies derived from the Charged Securities;
  - (ii) exercise all voting rights and other rights and powers attaching to the Charged Securities, subject to clause 6.6.1 (*Undertakings*) above and provided that such exercise shall not prejudice the interests of the Security Trustee under this Deed;

**PROVIDED THAT** the Chargors' rights and powers relating to the Charged Securities (or any part thereof) shall not be exercised in any manner which would result in any variation of the rights attaching to or conferred by the Charged Securities (or any part thereof) or which in the opinion of the Security Trustee is inconsistent with, or prejudicial to, its security over the Charged Securities (or any part thereof) or which would result in the Security Trustee incurring any cost, expense or liability.

- (b) Upon the occurrence of an Event of Default, the Security Trustee may, at its discretion, (in the name of the Chargors or otherwise and without any further consent or authority from the Chargors):
  - (i) transfer the Charged Securities into the name of the Security Trustee or such nominees(s) of the Security Trustee as it shall require;
  - (ii) exercise (or refrain from exercising) all voting and other rights and powers attaching to the Charged Securities in such a manner as the Security Trustee deems appropriate;
  - (iii) apply all dividends, interest and other monies derived from the Charged Securities as though they were proceeds of sale under this Deed;

- (iv) date and/or otherwise complete any documentation deposited with it pursuant to clause 3.5.2 (*Charged Securities*);
- (v) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Securities including the right, in relation to any company whose shares or other securities are included in the Charged Securities, to concur or participate in:
- (vi) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
- (vii) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
- (viii) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Security Trustee thinks fit, and the proceeds of any such action shall form part of the Charged Securities.

- (c) The Chargors shall, if requested by the Security Trustee after the occurrence of an Event of Default, instruct any clearance system to transfer any Charged Securities held by it for or on behalf of the Chargors to an account of the Security Trustee or its nominee with that clearance system or otherwise as the Security Trustee may direct.

#### **6.6.3 *Payment of calls***

The Chargors shall pay when due all calls, instalments or other payments and shall discharge all other obligations, which may become due in respect of any of the Charged Securities.

#### **6.6.4 *Liability of the Security Trustee***

Neither the Security Trustee nor any Receiver shall have any duty to ensure that any dividends, distributions or other monies receivable in respect of the Charged Securities are duly and punctually paid, received or collected as and when the same become due and payable or to ensure that the correct amounts (if any) are paid or received on or in respect of such Charged Securities or to ensure the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of redemption, bonus, rights, preference, or otherwise on or in respect of, any of the Charged Securities.

### **6.7 *Accounts and Receivables***

#### **6.7.1 *General***

- (a) Each Chargor covenants and undertakes with the Security Trustee that during the Security Period the Chargor:
  - (i) shall not, without the Security Trustee's prior written consent, permit or agree to any material variation of the rights attaching to an Account which is reasonably likely to prejudice the rights of the Security Trustee or close an Account;
  - (ii) each Account must, unless the Security Trustee otherwise agrees in writing, be maintained at a branch of the Security Trustee.

### 6.7.2 **Receivables**

Each Chargor covenants and undertakes with the Security Trustee that at all times during the continuance of the Security, the Chargor will:

- (a) collect all Receivables promptly in the ordinary course of business;
- (b) not, without the prior written consent of the Security Trustee, purport to charge, sell, assign, factor, transfer, discount or otherwise dispose of, or permit to subsist, any charge or lien over the Receivables in favour of any other person;
- (c) not, without the prior written consent of the Security Trustee, permit or agree to any variation of the rights attaching to the Receivables or any of them;
- (d) not without the prior written consent of the Security Trustee, release, exchange, compound, set-off, grant time or indulgence in respect of the Receivables; and
- (e) at its own expense institute, continue or defend all such proceedings in connection with the Receivables.

## 6.8 **Intellectual Property**

Each Chargor covenants and undertakes with the Security Trustee that during the Security Period, the Chargor shall:

### **Information**

- 6.8.1 promptly deliver to the Security Trustee on the date of this Deed (and, if any material change occurs thereafter and new Intellectual Property come into existence, promptly after the date of such change), details of all Intellectual Property granted to or held by or on behalf of the Chargor;
- 6.8.2 maintain such registrations to keep those registered Intellectual Property which are material to the Chargor's business in force and to record its interest in those Intellectual Property;

### **Protection**

- 6.8.3 take such steps at its own expense as are within its power (including, without limitation, the institution of legal proceedings) to prevent third parties infringing the Intellectual Property and procure that any further Intellectual Property licensed to it are freely assignable and chargeable to the Security Trustee;

### **Registration**

- 6.8.4 if requested to do so by the Security Trustee from time to time, make entries in any appropriate public register (in England or elsewhere) of the Intellectual Property which record the existence of this Deed; and

### **No prejudice**

- 6.8.5 not, without the prior written consent of the Security Trustee:
  - (a) sell, assign, transfer, mortgage, licence or otherwise dispose of or encumber all or any part of its Intellectual Property;
  - (b) permit any such Intellectual Property to be abandoned or cancelled, to lapse or to be liable to any claim of revocation for non-use or otherwise; or

- (c) apply to amend the specification or drawings referred to in any of the Intellectual Property or in any registration of such Intellectual Property.

## **7 ENFORCEMENT OF SECURITY**

### **7.1 When enforceable**

- 7.1.1 The Security shall become enforceable immediately upon the occurrence of an Enforcement Event and the Secured Obligations will be deemed to have become due and payable.
- 7.1.2 After the Security has become enforceable the Security Trustee may in its absolute discretion enforce all or any part of the Security in such a manner as it sees fit and the Security Trustee shall cease to be under any further commitment to the Chargors.

### **7.2 Statutory powers**

- 7.2.1 The powers conferred on mortgagees, receivers or administrative receivers by the Act and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Deed, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Deed, those contained in this Deed shall prevail.
- 7.2.2 All or any of the powers conferred upon mortgagees by the Act as varied or extended by this Deed, and all or any of the rights and powers conferred by this Deed on a Receiver (whether expressly or impliedly) may be exercised by the Security Trustee without further notice to any Chargor at any time after an Event of Default which is continuing has occurred, irrespective of whether the Security Trustee has taken possession or appointed a Receiver of any Secured Assets.
- 7.2.3 The restriction on the consolidation of mortgages and on power of sale imposed by section 93 and 103 respectively of the Act shall not apply to the Security.

#### **7.2.4 Powers of Leasing**

The statutory powers of leasing and accepting surrenders of leases conferred on mortgagees under the Act, and by any other statute, are extended so as to authorise the Security Trustee and Receiver, at any time after the Security has become enforceable, whether in its own name or in that of the Chargor, to:

- (a) grant any lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) grant any option of the whole or any part of the freehold and leasehold property of the Chargor with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of any Chargor and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Security Trustee or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the Act.

### **7.3 Mortgagee in Possession**

- 7.3.1 In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Act as more particularly detailed in clause 7.2 (*Statutory powers*) and at any time after the Security has become enforceable, the Security Trustee may, without further notice or demand and without the need to obtain the consent of the Chargor, enter into possession of the Secured Assets.

7.3.2 After the Security Trustee, in accordance with the provisions of this Deed, enters into possession of the Mortgaged Property, the Security Trustee will have power to:

- (a) effect and carry out upon any building or erection for the time being comprised in such part of the Mortgaged Property of which the Security Trustee is in possession any such repairs, amendments, alterations and additions as the Security Trustee may reasonably consider necessary or desirable for the maintenance or protection of all or any part of the Mortgaged Property;
- (b) charge or agree to charge any or part of the Mortgaged Property of which the Security Trustee is in possession for such period at such rent and upon such terms with or without a premium or fine in all respects as the Security Trustee may from time to time think fit; and
- (c) perform or cause to be performed all acts and things requisite or desirable according to the law of the country in which the Mortgaged Property or any part thereof of which the Security Trustee is in possession is situate for the purpose of giving effect to the exercise of any of the said powers, authorities and discretions.

#### 7.4 No liability

7.4.1 Neither the Security Trustee nor any Receiver will be liable for any loss or damages which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his/her respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct) in relation to all or any part of the Secured Assets.

7.4.2 Without prejudice to the generality of clause 7.4.1 above, neither the Security Trustee nor any Receiver will be liable to account as mortgagee in possession in respect of the Secured Assets or any part thereof nor be liable for any loss on realisation or in connection with the Secured Assets or for any default or omission for which a mortgagee in possession might be liable.

#### 7.5 Protection of third parties

7.5.1 No person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his/her agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Trustee or a Receiver is purporting to exercise has become exercisable;
- (c) whether any of the Secured Obligations remain outstanding under the Debt Documents (or any of them); or
- (d) how any money paid to the Security Trustee or a Receiver is to be applied.

7.5.2 No purchaser from the Security Trustee or any Receiver, delegate or sub-delegate shall be entitled to rely on Section 105(2) of the Act which is disapplied by this Deed.

### 8 RECEIVERS

#### 8.1 Appointment of a receiver

8.1.1 At any time after the Chargors so request or the Security becomes enforceable, the Security Trustee may, appoint under seal or under the hand of a duly authorised officer of the Security Trustee, any person or persons considered by it to be competent to be a receiver or a receiver and manager (hereinafter called a **Receiver** which expression will, where the context so admits, include the plural



and any substituted receiver or receiver and manager) of all or any part of the Secured Assets and shall be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act.

8.1.2 If at any time there is more than one Receiver of all or part of the Secured Assets, each such Receiver may, (unless otherwise stated in any appointment document) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of each other Receiver.

8.1.3 All of the powers, authorities and discretions which are conferred by this Deed, either expressly or impliedly, upon any Receiver may be exercised by the Security Trustee after the Security becomes enforceable in relation to all or part of the Secured Assets without first appointing a Receiver or notwithstanding the appointment of a Receiver of the Secured Assets, or any part thereof.

## **8.2 Receiver as agent**

Any Receiver so appointed shall be the agent of the Chargors and the Chargors will be solely responsible for his/her remuneration, acts, defaults, omissions and losses and for all costs, expenses, liabilities incurred by that Receiver. The Security Trustee shall not incur any liability by reason of the appointment of a Receiver or for any other reason.

## **8.3 Remuneration**

The Security Trustee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Act, and the Security Trustee may direct payment thereof out of the Secured Assets but the Chargors alone will be liable for payment of such remuneration.

## **8.4 Removal of a Receiver**

The Security Trustee may in writing remove any Receiver so appointed and appoint another person or person as Receiver either in place of a Receiver whose appointment has been terminated or in addition to any Receiver already appointed.

## **8.5 Powers of a Receiver**

A Receiver so appointed will have and be entitled to exercise, in addition to all powers conferred by the Act (except where expressly disappplied in this Deed) and the Insolvency Act 1986, each of the additional powers, rights and obligations as set forth in Schedule 2

## **9 APPLICATION OF PROCEEDS**

9.1 Any monies received by the Security Trustee and/or any Receiver after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied in accordance with the Intercreditor Agreement.

9.2 Sections 109(6) and (8) of the Act shall not apply to a Receiver appointed under this Deed. This clause is without prejudice to the right of the Security Trustee to recover any shortfall from the Chargors.

## **10 CONSOLIDATION OF ACCOUNTS AND SET-OFF**

### **10.1 Consolidation**

The Chargors agree that the Security Trustee may at any time without notice and notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the Chargors' existing accounts wheresoever located (including accounts in the name of the Chargors jointly with others and including each Account together with any credit balance) whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and in any currency.

## 10.2 **Set-off**

The Security Trustee may set off any matured obligation due from the Chargors against any matured obligation owed by the Security Trustee to the Chargors, regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Security Trustee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of set off.

## 11 **FURTHER ASSURANCES**

11.1 The Chargor shall, at its own expense, take whatever action as may be required by the Security Trustee:

11.1.1 to perfect or protect the Security intended to be created by this Deed; and

11.1.2 to facilitate the realisation of the Secured Assets or the exercise of any right, power or discretion exercisable by the Security Trustee or any such Receiver in respect of the Secured Assets,

including the execution, acknowledgement or delivery of any agreement, transfer, mortgage, charge or assignment, notice, or the making of a registration, in each case as the Security Trustee may direct.

11.2 The Chargors shall use all reasonable endeavours to obtain (in form and content reasonably satisfactory to the Security Trustee) as soon as practicable any consents necessary in the reasonable opinion of the Security Trustee, to enable the assets of the Chargors not so assigned or charged pursuant to clause 3 (*Charging Provisions*) (and which are, in the opinion of the Security Trustee, material assets) to become the subject of an effective fixed charge or floating charge or assignment. The Chargors shall promptly deliver a copy of each such consent to the Security Trustee and immediately upon obtaining any such consent, the Chargors shall execute such documents and do all such acts in accordance with the provisions of this clause 11 (*Further Assurances*) as the Security Trustee shall reasonably require in order to create effective security by way of a fixed charge, floating charge or assignment over such assets.

## 12 **POWER OF ATTORNEY**

### 12.1 **Power of attorney**

12.1.1 The Chargors, by way of security, hereby irrevocably appoint the Security Trustee, each Receiver and any of their Delegates, jointly and also severally, to be its attorney:

(a) to take any action which the Chargors are obliged to take under this Deed, including under clause 11 (*Further Assurances*);

(b) to do all such acts or things as may be required by the Security Trustee or any Receiver under this Deed in exercise of any of their powers.

12.1.2 The power of attorney under this clause 12.1 shall only be exercisable after the occurrence of an Enforcement Event.

12.1.3 The Chargors ratify and confirm all things done by any attorney appointed under this clause in the exercise or purported exercise of all or any of such attorney's powers.

### 12.2 **Delegation**

The Security Trustee or any Receiver may delegate by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including the power to sub-delegate) as it may deem fit but no such delegation shall preclude the subsequent exercise of such power by the Security Trustee or any Receiver itself or himself/herself or preclude the Security Trustee or the Receiver from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Security Trustee or the Receiver at any time.

### 12.3 **Liability**

Neither the Security Trustee nor any Receiver will be in any way liable or responsible to the Chargors for any loss or liability arising from any act, default, omission or misconduct on the part of any such Delegate.

## 13 **COSTS AND EXPENSES**

### 13.1 **Transaction expenses**

The terms and provisions of clause 18.1 (*Transaction expenses*), clause 18.2 (*Amendment costs*) and clause 18.4 (*Enforcement and preservation of costs*) of the Facilities Agreement shall apply to this Deed as if such terms and provisions were set out in full herein *mutatis mutandis*.

### 13.2 **Taxes**

The Chargors shall promptly pay all stamp, registration and other Taxes to which this Deed or any judgment given in connection with this Deed is or at any time may be subject and shall indemnify the Security Trustee against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Taxes.

### 13.3 **Indemnity**

The Chargors shall promptly indemnify the Security Trustee and every Receiver and Delegate against any cost, loss or expenses (including legal fees) and liabilities (including VAT thereon) incurred by any of them as a result of:

13.3.1 the taking, holding, protection or enforcement of this Deed and the Security; and/or

13.3.2 anything done in the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee and each Receiver and Delegate by this Deed or by law.

## 14 **CURRENCY CONVERSION AND INDEMNITY**

### 14.1 **Currency Conversion**

All monies received or held by the Security Trustee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Security Trustee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the then prevailing spot rate of exchange (as conclusively determined by the Security Trustee) for purchasing the currency to be acquired with the existing currency).

### 14.2 **Currency Indemnity**

No payment to the Security Trustee (whether under any judgment or court order or otherwise) will discharge the obligation or liability of the Chargors in respect of which it was made unless and until the Security Trustee receives payment in full in the currency in which such obligation or liability was incurred, and to the extent that the amount of any such payment, on actual conversion into such currency, falls short of such obligation or liability expressed in that currency, the Chargors shall indemnify and hold harmless the Security Trustee from and against any loss it suffers or incurs as a result of any such shortfall.

## 15 **MISCELLANEOUS PROVISIONS**

### 15.1 **Suspense account**

All monies received, recovered or realised by the Security Trustee under this Deed (including the proceeds of any conversion of currency) may, at the discretion of the Security Trustee, be credited to any interest-bearing suspense account for so long as the Security Trustee may determine (with interest accruing thereon)

without the Security Trustee having any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Obligations.

## **15.2 New accounts**

If the Security Trustee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Secured Asset and/or the proceeds of sale of any Secured Asset:

15.2.1 the Security Trustee may open a new account for the Chargors; and

15.2.2 if the Security Trustee does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice,

and as from that time, all payment made to the Security Trustee shall be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

## **15.3 Amendments**

Any provision of this Deed may be amended, supplemented, varied, modified, released or discharged only if the Security Trustee and the Chargors so agree in writing.

## **15.4 Unfettered discretion**

Save as otherwise stated in this Deed, any liability or power which may be exercised or any determination which may be made under this Deed by the Security Trustee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

## **15.5 Severability**

All the terms and provisions of this Deed are distinct and severable, and if any term or provision is held unenforceable, illegal or void in whole or in part (or any of the Security intended to be created by or pursuant to this Deed is ineffective) by any court, regulatory authority or other competent authority it shall to that extent be deemed not to form part of this Deed, and the enforceability, legality and validity of the remainder of this Deed will not be affected.

## **16 RIGHTS AND REMEDIES**

### **16.1 Waiver and forbearance**

16.1.1 No failure or delay by the Security Trustee or any Receiver to exercise any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. A waiver or consent by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

16.1.2 The rights of the Security Trustee or any Receiver under this Deed will not be prejudiced or restricted by any indulgence or forbearance extended to the Chargor or other parties including a release of any person or persons (whether or not a party hereto and whether or not such person or persons are jointly and/or severally liable with the Chargors) in respect of the Secured Obligations or of any other security without prejudice either to the Security or to the liability of the Chargors for the Secured Obligations.

### **16.2 Remedies Cumulative**

The rights and remedies of the Security Trustee and any Receiver under this Deed are cumulative and not exclusive of any rights or remedies provided by law.

### 16.3 **Chargor intent**

The Chargors expressly confirm that they intend that the Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Debt Documents and/or any facility or amount made available or owing under or in connection with any of the Debt Documents for any purpose (including, but not limited to, for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any increase in any interest rate; any other variation or extension of the purposes for which any such facility or amount might be available from time to time; and any fees, costs and/or expenses associated with any of the foregoing).

## 17 **ASSIGNMENT**

17.1 The Chargors may not assign or transfer all or any of their rights, benefits or obligations under this Deed.

17.2 The Security Trustee may assign or transfer all or any part of its rights under this Deed to any person upon the terms and conditions set out in clause 26 of the Facilities Agreement and the Chargors hereby consent to any such assignment. The Security Trustee will be entitled to impart any information concerning the Chargors to any assignee or successor in title.

17.3 This Deed shall be binding upon and inure to the benefit of the Chargors and their respective successors and permitted assigns and references in this Deed to any of them shall be construed accordingly.

## 18 **NOTICES**

The terms and provisions of clause 18 (*Notices*) of the Intercreditor Agreement shall apply to this Deed as if such terms and provisions were set out in full herein mutatis mutandis.

## 19 **COUNTERPARTS**

This Deed may be executed in counterparts and each such counterpart taken together shall be deemed to constitute one and the same instrument.

## 20 **RELEASE OF SECURITY**

### 20.1 **Release of Security**

Subject to and without prejudice to clause 20.2 (*Retention of Security*), upon the expiry of the Security Period, the Security Trustee shall, at the request and cost of the Chargors, take whatever action is necessary to release or re-assign and discharge the Secured Assets from the Security.

### 20.2 **Retention of Security**

If any payment or discharge of the Secured Obligations is, in the reasonable opinion of the Security Trustee, liable to be avoided or invalidated under any enactment relating to insolvency, liquidation or otherwise (without limitation), the Security Trustee may refuse to grant any release of the Security for such further period as the risk of such avoidance or invalidity continues.

### 20.3 **Reinstatement**

Where any discharge in respect of the Secured Obligations is made, in whole or in part or any arrangement is made on faith of any payment, security, assurance or otherwise, which is avoided or must be restored on insolvency, liquidation or otherwise, the liability of the Chargors under this Deed shall continue as if the discharge or arrangement had not occurred.

## 21 **GOVERNING LAW**

This Deed and all relationships created by it and arising out of or in connection with it, together with all Disputes, will in all respects be governed by and construed in accordance with the laws of England and Wales.

## 22 **ENFORCEMENT**

### 22.1 **Jurisdiction**

22.1.1 The Chargors hereby agree for the exclusive benefit of the Security Trustee that any Proceedings brought against the Chargors with respect to this Deed may be brought in the High Court in England or such other competent court of England and Wales as the Security Trustee may elect, and the Chargors waive any objection to Proceedings in such courts whether on grounds of venue or on the grounds that Proceedings have been brought in any inconvenient forum. The Chargors undertake to enter an unconditional appearance within 14 days after the completion of any service or process in any Proceedings. The Chargors hereby consent to the service by post of any process issued in connection with this Deed. Nothing in this Deed will affect the right to serve process in any other manner permitted by law.

22.1.2 Nothing contained in this Deed will limit the right of the Security Trustee to take Proceedings against the Chargors in any other court of competent jurisdiction, nor will the taking of any Proceedings in any one or more jurisdictions preclude the taking by the Security Trustee of Proceedings in any other jurisdiction whether concurrently or not.

## 23 **SERVICE OF PROCESS**

Without prejudice to any other mode of service allowed under any relevant law, each Chargor (other than a Chargor incorporated in England) irrevocably appoints the Company as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and

23.1 agrees that failure by a process agent to notify the Chargors of the process will not invalidate the proceedings concerned;

23.2 if any person appointed as process agent is unable for any reason to act as agent for service of process, he/it must immediately (and in any event within (seven) days of such event taking place) appoint another agent on terms acceptable to the Security Trustee. Failing this, the Security Trustee may appoint another agent for this purpose.

**IN WITNESS** whereof this Deed has been duly executed by the parties to it on the date set out at the beginning of this Deed.

The Chargers

SIGNED AND DELIVERED as a Deed

for and on behalf of MONAGHAN MIDDLEBROOK MUSHROOMS  
UNLIMITED COMPANYby its lawfully appointed attorney: Ronald Wilson

in the presence of:



(Signature of Attorney)



(Witness' Signature)

IVAN DUGGAN

(Witness' Name)



(Witness' Address)

Solicitor

(Witness' Occupation)

SIGNED AND DELIVERED as a Deed

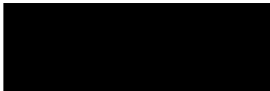
for and on behalf of MONAGHAN MUSHROOMS IRELAND  
UNLIMITED COMPANY

by its lawfully appointed attorney: Ronald Wilson

in the presence of:



(Signature of Attorney)



(Witness' Signature)

IVAN SUGGAN

(Witness' Name)



(Witness' Address)

Solicitor

(Witness' Occupation)



SIGNED AND DELIVERED as a Deed

for and on behalf of GLENVEAGH MUSHROOMS UNLIMITED  
COMPANY

by its lawfully appointed attorney: Ronald Wilton

in the presence of:



(Signature of Attorney)



(Witness' Signature)

IVAN DUGGAN

(Witness' Name)



(Witness' Address)

Solicitor

(Witness' Occupation)

GIVEN under the Common Seal of

SIGNED AND DELIVERED as a Deed

for and on behalf of TYHOLLAND MUSHROOMS LIMITED

by its lawfully appointed attorney: Ronald Wilson

in the presence of:



(Witness' Signature)



(Signature of Attorney)

IVAN DUGGAN

(Witness' Name)



(Witness' Address)

Slurter

(Witness' Occupation)

EXECUTED as a deed by MONAGHAN MUSHROOMS LIMITED



acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)



(Witness Signature)



(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by THAKEHAM MUSHROOMS LIMITED



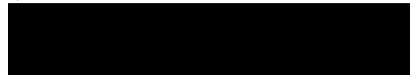
acting by:

DIRECTOR

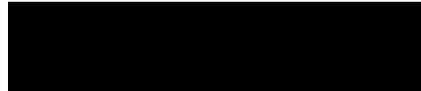
in the presence of:

IVAN DUGGAN

(Witness name)



(Witness Signature)



(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by DRIMBAWN (UK) LIMITED

[Redacted]

acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)

[Redacted]

(Witness Signature)

[Redacted]

(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by BROMCRAFT LIMITED

[Redacted]

acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)

[Redacted]

(Witness Signature)

[Redacted]

(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by THE PREMIER MUSHROOM GROUP LIMITED

  
acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)

  
(Witness Signature)

  
(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by TUNNEL TECH NORTH LIMITED


  
acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)

  
(Witness Signature)

  
(Witness Address)

Solicitor

(Witness Occupation)

EXECUTED as a deed by TUNNEL TECH LIMITED

[Redacted]

acting by:

DIRECTOR

in the presence of:

IVAN DUGGAN

(Witness name)

[Redacted]

(Witness Signature)

[Redacted]

(Witness Address)

Solicitor

(Witness Occupation)

The Security Trustee

SIGNED by 

for and on behalf of

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

as Security Trustee 

in the presence of:

Address:

Fax:

Attention:

**Bank of Ireland**  
**CORPORATE BANKING**  
Baggot Plaza  
27-33 Baggot St, Upper, Dublin 4  
  
BANKER

## SCHEDULE 1

### THE CHARGORS

No.	Name of Obligor		Registered number (or equivalent, if any)	Jurisdiction of Incorporation	Registered Office
1	Monaghan Mushrooms Company	Middlebrook Unlimited	309503	Ireland	Tyholland Monaghan Co. Monaghan



No.	Name of Obligor	Registered number (or equivalent, if any)	Jurisdiction of Incorporation	Registered Office
2	Tyholland Mushrooms Limited	442435	Ireland	Tyholland Monaghan Co. Monaghan
3	Glenveagh Mushrooms Unlimited Company	138274	Ireland	Tyholland Monaghan Co. Monaghan
4	Monaghan Mushrooms Ireland Unlimited Company	76070	Ireland	Tyholland Monaghan Co. Monaghan
5	Monaghan Mushrooms Limited	04949651	England and Wales	Stock Lane Langford Bristol Somerset BS40 5ES
6	Thakeham Mushrooms Limited	07698195	England and Wales	Stock Lane Langford Bristol Somerset BS40 5ES
7	Drimbawn (UK) Limited	02962358	England and Wales	Stock Lane Langford Bristol Somerset BS40 5ES
8	Bromcraft Limited	02748409	England and Wales	The Old Airfield Winchester Street Leckford Stockbridge Hampshire SO20 6JF
9	The Premier Mushroom Group Limited	05626511	England and Wales	Stock Lane Langford Bristol Somerset BS40 5ES
10	Tunnel Tech North Limited	02356763	England and Wales	The Old Airfield Winchester Street Leckford Stockbridge Hampshire SO20 6JF

No.	Name of Obligor	Registered number (or equivalent, if any)	Jurisdiction of Incorporation	Registered Office
11	Tunnel Tech Limited	01810641	England and Wales	The Old Airfield Winchester Street Leckford Stockbridge Hampshire SO20 6JF

## **SCHEDULE 2**

### **POWERS OF A RECEIVER**

#### **1 POSSESSION**

to take immediate possession of, get in and collect the property in respect of which the Receiver is appointed and to make such demands and take such proceedings as may seem expedient for that purpose, and to take possession of the property over which the Receiver is appointed with like rights;

#### **2 REALISATION**

to sell, realise or otherwise dispose of the Secured Assets and to make substitutions of, or improvements to, the Chargors plant and machinery as the Receiver thinks fit;

#### **3 MANAGE**

to carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying any business of the Chargors in any manner the Receiver thinks fit;

#### **4 APPOINT ADVISORS**

to appoint and discharge managers, officers, agents, professional advisers, consultants, servants, workmen, employees and others for the purposes specified in this Schedule upon such terms as to remuneration or otherwise as the Receiver thinks fit and to remove any person so appointed to any such position by the Chargors;

#### **5 BORROW MONEY/LEND MONEY**

to raise and borrow money or incur any other liability, either unsecured or on the security of any Secured Asset or otherwise and generally on any terms and for whatever purpose the Receiver thinks fit and to lend money or advance credit to any customer of the Chargors;

#### **6 SELL**

to grant rights, options or easements over, dispose of, convert into money and realise any Secured Asset by public auction or private contract and generally in any manner and on any terms the Receiver thinks fit. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period he or she thinks fit. Fixtures, plant and machinery may be severed and sold separately from the property containing them without the consent of the Chargors;

#### **7 LEASE**

to let, hire, lease, licence or grant any interest in any Secured Asset for any term and at any rent (with or without a premium) the Receiver thinks fit and to vary the terms, surrender or accept a surrender of any lease or tenancy of any Secured Asset on any terms which the Receiver thinks fit (including the payment of money to a lessee or tenant on a surrender) and to exercise on behalf of the Chargors, and without the consent of or notice to the Chargors, all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the secured assets.

**8 SHARE CALLS**

where the Chargor is a company, to require the Chargor, or the directors of the Chargor, to make calls conditionally or unconditionally upon the shareholders of the Chargor in respect of any of its uncalled capital and enforce payment of any call so made by action (in the name of the Chargor or the Receiver as the Receiver may think fit) or otherwise;

**9 RECEIVABLES**

to sell or assign all or any of the Receivables in respect of which the Receiver is appointed in such manner, and generally on such terms and conditions, as the Receiver thinks fit.

**10 VOTING RIGHTS**

to exercise in respect of any Secured Asset all voting or other powers or rights in such manner as the Receiver thinks fit;

**11 LAND REGISTRY**

to exercise on behalf of the Chargors and in the name of the Chargors all powers and rights of the Chargors relevant to effecting and necessary to effect the registration in the Land Registry of any fixed or specific charge created on any registered land, of the crystallisation of any floating charge or his or her appointment as Receiver;

**12 COMPROMISE**

to settle, adjust, refer to arbitration, allow time for payment, compromise and arrange any claim, contract, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargors or relating in any way to any Secured Asset;

**13 LEGAL ACTIONS**

to bring, prosecute, enforce, defend and abandon any action, suit or proceedings both in the Receiver's own name and in the name of the Chargors in relation to any Secured Asset which the Receiver thinks fit;

**14 RECEIPTS**

to give a valid receipt for any money and execute any assurance or thing that may be necessary or desirable for realising any Secured Asset;

**15 COMPANY REORGANISATION**

where the Chargor is a company, to form a subsidiary of the Chargor, arrange for any such subsidiary to trade or cease to trade as the Receiver sees fit, in his or her capacity as shareholder and transfer to that subsidiary any secured asset and sell or otherwise dispose of any such subsidiary;

**16 DELEGATION**

to delegate the Receiver's powers;

**17 MATERIAL CONTRACTS**

To enter into, abandon, perform, repudiate, rescind, vary or cancel any material contracts as the Receiver thinks fit;

18     **INSURANCES**

to effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurances required to be maintained under any Finance Document entered into by the Chargors;

19     **TAXES**

to make any election for value-added tax purposes that the Receiver thinks fit and to run the tax affairs of the Chargors in any manner that the Receiver thinks fit;

20     **INTELLECTUAL PROPERTY**

to take all steps necessary to effect any registration, renewal, application or notification that the Receiver thinks fit to maintain in force or protect any Intellectual Property;

21     **SETTLE ACCOUNTS**

to redeem any prior Security Interest and to settle and pass the accounts to which that Security Interest relates. Any accounts so settled and passed are conclusive and binding on the Chargors, and any money so paid shall be taken to be an expense properly incurred by him or her;

22     **PROTECT AND MANAGE**

to effect any repair or insurance and do any other act which the Chargors might do in the ordinary conduct of its business to protect or improve any Secured Asset and to arrange for or provide any service proper for the efficient use or management of the Secured Assets.

23     **PLANNING/BUILDING**

to apply for and maintain any planning permission, building regulation approval or any other authorisation and to commence and complete any building operation, and to complete any building operation already begun;

24     **USE THE CHARGORS' NAME**

to use the name of the Chargors when exercising any of the rights, powers or discretions conferred on the Receiver;

25     **INSOLVENCY**

to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Chargors and to receive dividends, and to accede to the trust deeds for the creditors of any such person;

26     **PAYMENTS**

to make any payment which is necessary or incidental to the performance of his or her functions;

27     **OTHER RIGHTS**

to do all other acts and things which he or she may consider desirable or necessary for realising any Secured Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver;

to exercise in relation to a Secured Asset all the rights, powers and authorities that he or she could exercise if he or she were the absolute beneficial owner of the Secured Asset;

to do all acts and to execute in the name and on behalf of the Chargors any deed, receipt or other document;

to draw, accept, make or endorse any bill of exchange or promissory note in the name of and on behalf of the Chargors.

### SCHEDULE 3

#### Part 1 Accounts

<b>Security Provider</b>	<b>Account Bank Name Address</b>	<b>Account Name &amp; Number</b>	<b>Account Type</b>	<b>Sort Code</b>	<b>Currency</b>
Monaghan Mushrooms Limited	Bank of Ireland	19■■■■98	-	■■■■■	Sterling
Monaghan Mushrooms Limited	Bank of Ireland	89■■■■72	Current Account	■■■■■	Sterling
Drimbawn Mushrooms (UK) Limited	Bank of Ireland	11■■■■63	Current Account	■■■■■	Sterling
Drimbawn Mushrooms (UK) Limited	Bank of Ireland	80■■■■80	Current Account	■■■■■	Sterling
Thakeham Mushrooms Limited	Bank of Ireland	87■■■■06	Business Current Account	■■■■■	Sterling
Tyolland Mushrooms Limited	Bank of Ireland	78■■■■59	Current Account	■■■■■	Sterling
Glenveagh Mushrooms	Bank of Ireland	96■■■■59	Current Account	■■■■■	Sterling
The Premier Mushroom Group Limited	Bank of Ireland	30■■■■12	Current Account	■■■■■	-
Tunnel Tech Limited	Santander UK plc	01■■■■07	Current Account	■■■■■	-
Tunnel Tech Limited	Santander UK plc	01■■■■15	Deposit Account	■■■■■	-
Tunnel Tech North Limited	Santander UK plc	01■■■■66	Current Account	■■■■■	-
Tunnel Tech North Limited	Santander UK plc	01■■■■74	Deposit Account	■■■■■	-

Bromcraft Limited	Santander UK plc	10■■■■73	Current Account	■■■■■	
Thakeham Mushrooms Limited	Bank of Ireland	81■■■■20	Deposit Account	■■■■■	
Thakeham Mushrooms Limited	Bank of Ireland	8■■■■01	Deposit Account	■■■■■	

## Part 2 Insurance

<b>Security Provider</b>	<b>Insurer Name, Address &amp; Contact Name</b>	<b>Type of Policy</b>	<b>Policy Number</b>	<b>Policy Value</b>
Monaghan Mushrooms Limited	HDI-Gerling Industrial Insurance Company Ireland Merrion Hall, Strand Road, Sandymount, Dublin 4 Attention: Manager	Employers Liability Public Liability Products Liability	■■■■■ ■■■■■	Employers Liability: €20,000,000 any one occurrence /unlimited any one period
Monaghan Mushrooms Limited	HDI-Gerling Industrial Insurance Company Ireland Merrion Hall, Strand Road, Sandymount, Dublin 4 Attention: Manager	Public Liability Products Liability	■■■■■ ■■■■■	Public Liability €10,000,000 any one occurrence / unlimited any one period Products Liability: €10,000,000 any one occurrence /any one period of insurance
Monaghan Mushrooms Limited	AIG Europe Ltd  30 North Wall Quay, International Financial Services Centre, Dublin 1 Attention: General Manager	Group Business Travel / Personal Accident	■■■■■	Death Benefit €50,000 Medical Expenses - Unlimited
Monaghan Mushrooms Limited	AIG Europe Ltd	Environmental Liability	■■■■■	€500,000



	30 North Wall Quay, International Financial Services Centre, Dublin 1 Attention: General Manager			
Monaghan Mushrooms Limited	Zurich Insurance PLC Zurich House Ballsbridge Park Dublin 4 Attention: Manager	Engineering		£500,000

### Part 3 Intellectual Property - Patents

Security Provider	Jurisdiction	Patent Description	Application / Patent No.
Monaghan Mushrooms Ireland Unlimited Company	United Kingdom	Process for Modifying and/or Increasing Vitamin D Content of Mushrooms	
Monaghan Mushrooms Ireland Unlimited Company	United Kingdom	Process for Modifying and/or Increasing Vitamin D Content of Mushrooms	

### Part 4 Material Contracts

None as at the date of this Deed

### Part 5 Shares

Security Provider	Charged Company	Registered Number	Description of Securities	Number of Securities
Monaghan Group Holdings Unlimited	Monaghan Mushrooms Limited	-	Ordinary shares of £1.00	1
Monaghan Mushrooms Limited	Thakeham Mushrooms Limited	-	Ordinary shares of £1.00	1
Monaghan Mushrooms Limited	Drimbawn (UK) Limited	-	Ordinary shares of £1.00	2
Monaghan Mushrooms Limited	Bromcraft Limited	-	Ordinary shares of £1.00	4000 A Ordinary Shares 2000 C Ordinary Shares
Monaghan Mushrooms Limited	Northern Straw Limited	-	Ordinary Shares of £1 each	300

Monaghan Mushrooms Limited	HHH Goole Limited	-	Ordinary Shares of £1 each	100
Monaghan Mushrooms Limited	The Premier Mushroom Group Limited	-	Ordinary shares of £1.00	1,000

### Part 6 Plant and Equipment

Security Provider	Description of Plant and Equipment	Serial/Identification Number
Drimbawn Mushrooms (UK) Limited	Whitley Farm - 30 houses Whitley Farm – 6 houses – tilting trays  Langford Farm - 60 houses  Fenton Barns Farm - 48 houses	-
Monaghan Mushrooms Limited	Langford Packhouse - Machinery for M&S Topsealing Omori wrapper Crate conveyor Vitamin D machine  New Facilities Langford - Construction/materials, labour, furniture, plumbing, electric etc  Thakeham Packhouse - Omori STN 8500 Stretchwrapper  Whitley New Packhouse	-
Thakeham Mushrooms Limited	Refurbishment of existing Growing Rooms - Blocks A, B and C — Rooms 14  Site wide works  Refurbishment of existing Pack House Building  Conversion of existing Pre-Crop Rooms into 24nr Growing Rooms — Rooms 24  Conversion of existing Spawning Building into 6nr Growing Rooms — Rooms 6	-

### Part 7 Mortgaged Property

Security Provider	Description of Mortgaged Property	Folio Number
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Monaghan Mushrooms Limited	Land on the North West side of Gravel Hill Lane, Whitley Bridge, North Yorkshire	NYK46204. NYK353697, NYK361675 and NYK382674.
Tunnel Tech North Limited	Land and buildings known as Newington Farm, Newington, Doncaster, South Yorkshire DN10 6DJ	NT250680

#### **Part 8 Leases**

**None as at the date of this Deed**

## SCHEDULE 4

### FORM OF NOTICE OF ASSIGNMENT OF MATERIAL CONTRACTS AND ACKNOWLEDGEMENT

#### Part 1 Notice of Assignment

(On headed notepaper of the Chargor)

[Date]

**To:** [Insert Addressee - Material Contract Counterparty details]

**Attention:** [ ]

**Re:** [Insert Material Contract details] **(the Material Contract)**

Dear Sirs

We hereby give you notice that we have charged and assigned to The Governor and the Company of the Bank of Ireland (**the Security Trustee**) pursuant to a debenture entered into by us in favour of the Security Trustee on [●] 2023 over all our right, title and interest in and to the Material Contracts including all monies which may be payable in respect of such Material Contracts.

With effect from your receipt of this notice, we hereby irrevocably instruct and authorise you:

- 1 to pay all monies due to us under or arising from the Material Contract to the Security Trustee or to its order as it may specify in writing from time to time;
- 2 to disclose to the Security Trustee at our expense (without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure), such information relating to the Material Contract as the Security Trustee may from time to time request;
- 3 to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Material Contracts, which you receive at any time from the Security Trustee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions; and
- 4 to send copies of all notices and other information given or received under the Material Contract to the Security Trustee.

We are not permitted to agree any amendment or supplement to, or waive any obligation under, the Material Contract without the prior written consent of the Security Trustee.

These instructions may only be revoked or amended with the prior written consent of the Security Trustee.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and return the same to the Security Trustee at Head Office, 40 Mespil Road, Dublin 4 marked for the attention of Aidan Brosnan.

This letter is governed by, and shall be construed in accordance with the laws of England and Wales.

Yours faithfully

---

**Authorised Signatory**

For and on behalf of [the Chargor]

## Part 2 Acknowledgment of Assignment

(On headed notepaper of relevant Material Contract Counterparty)

[Date]

**To:** The Governor and The Company of the Bank of Ireland (the **Security Trustee**)

**Re:** [Insert Material Contract details] (the **Material Contract**)

In the name of [ ] (the **Assignor**)

Dear Sirs,

We confirm receipt from [insert name of Assignor] of a notice (**Notice**) dated [ • ] with respect to the assignment of the Assignor's rights, title and interest in and to the Material Contract.

We confirm that:

- 1 we accept the instructions contained in that notice and we undertake to act in accordance with and comply with the terms of that notice;
- 2 we have not received notice of the creation of any assignment, charge or other interest over the Chargors' rights, title or interest in or to the Material Contract; and
- 3 notwithstanding such assignment, the Chargors remain liable to perform and observe all obligations on its part contained in the Material Contract and you shall not be in any way responsible for performing or observing those obligations or for any failure on the part of the Chargor to do so.

This letter is governed by, and shall be construed in accordance with the laws of England and Wales.

Yours faithfully

---

On behalf of

[Counterparty]

## SCHEDULE 5

### FORM OF NOTICE OF ASSIGNMENT OF INSURANCES AND ACKNOWLEDGEMENT

#### Part 1 Notice of Assignment

[Date]

**To:** [Insert Insurer Addressee details]

**Attention:** [ ]

**Re:** [Insert Insurances details] **(the Insurances)**

Dear Sirs,

We hereby give you notice that we have assigned to The Governor and the Company of the Bank of Ireland (**the Security Trustee**) pursuant to a debenture entered into by us in favour of the Security Trustee on [●] 2023 over all our right, title and interest in and to the proceeds of the Insurances.

With effect from your receipt of a notice from the Security Trustee confirming that an Event of Default has occurred, we instruct you to:

- 1 make all payments and claims under or arising from the Insurances to the Security Trustee or to its order to such account as it may specify in writing from time to time;
- 2 note the interest of the Security Trustee on the Insurances; and
- 3 disclose to the Security Trustee, without further approval from us, such information regarding the Insurances as the Security Trustee may from time to time request and to send it copies of all notices issued by you in relation to the Insurances.

You will give notice to the Security Trustee in writing:

- 1 if the Chargors propose to cancel or gives notice of cancellation of any Insurances at least 30 days before such cancellation is to take effect;
- 2 of any material alteration or, the termination or expiry of any such Insurances at least 30 days before such alteration, termination or expiry is to take effect; and
- 3 promptly of any default in the payment of any premium or failure to renew any such Insurances and shall give the Security Trustee not less than 30 days in which to pay the defaulted premium without cancelling the policy during such 30 days period.

With effect from your receipt of a notice from the Security Trustee confirming that an Event of Default has occurred, all rights, interest and benefits whatsoever accruing to or for the benefit of ourselves arising from the Insurances (including all rights to compel performance) belong to and are exercisable by the Security Trustee.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and return the same to the Security Trustee at Head Office, 40 Mespil Road, Dublin 4 marked for the attention of Aidan Brosnan.

This letter is governed by, and shall be construed in accordance with the laws of England and Wales.

Yours faithfully,

.....

**Authorised Signatory**

For and on behalf of **[The Chargors]**

**Part 2 Acknowledgment of Assignment**

**(On headed notepaper of relevant Insurance Company)**

**[Date]**

**To:** [Insert addressee details]

**Re:** [Insert Insurance details] (the Insurances)

**In the name of [ ] (the Chargor)**

Dear Sirs,

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Insurances shall be effective unless we have given the Security Trustee thirty (30) days written notice of such amendment or termination.

Yours faithfully,

.....  
for and on behalf of

**[INSURER]**



## SCHEDULE 6

### FORM OF NOTICE OF ASSIGNMENT OF BLOCKED ACCOUNT AND ACKNOWLEDGEMENT

#### Part 1 Notice of Assignment

[Date]

To: [Insert Addressee details]

Attention: [ ]

Re: Our Account(s) numbered [ • ] (the **Account(s)**)

Dear Sirs,

We hereby give you notice that by a Debenture (the **Deed**) dated [ • ] 2023, (a copy of which is attached hereto) we have charged and assigned in favour of The Governor and the Company of The Bank of Ireland (the **Assignee**, which term includes its successors and assigns) all our rights, title and interest in the Account(s) together with all monies standing to the credit of the Account(s) from time to time.

Please note that the Assignee has been irrevocably appointed by ourselves as our true and lawful attorney to do (inter alia) all acts and things which we could do and to act in relation to the administration or enforcement or attempted enforcement of the Assignment and you are required to follow all instructions that the Assignee may give to you in accordance with the terms of the Assignment.

We hereby irrevocably authorise and instruct you:

- 1 To disclose to the Assignee without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, such information relating to the Account(s) and the sums therein as the Assignee may at any time and from time to time request;
- 2 To hold all sums from time to time standing to the credit of the Account(s) to the order of the Assignee;
- 3 To pay or release all or any part of the sums from time to time standing to the credit of the Account(s) in accordance with the written instructions of the Assignee at any time or times;
- 4 To comply with the terms of the written notice or instructions in any way relating to, or purporting to relate to the Deed, the sums standing to the credit of the Account(s) from time to time or the debts represented thereby which you receive at any time from the Assignee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions.

Please note that we are not permitted to withdraw any amount from the Account(s) without the prior written consent of the Assignee.

Please also note that these instructions are not to be revoked or varied without the prior written consent of the Assignee.

This letter is governed by, and shall be construed in accordance with the laws of England and Wales.

Please confirm your agreement to the above by sending the attached acknowledgement to the Assignee with a copy to ourselves.

Yours faithfully,

**Authorised Signatory**

For and on behalf of [The Chargors]

## Part 2 Acknowledgment of Assignment

(On headed notepaper of relevant Account Bank)

[Date]

To: [Insert addressee details]

Re: Account(s) numbered [ • ] (the Account(s))

In the name of [ ] (the Assignor)

Dear Sirs,

We confirm receipt from [insert name of Assignor] of a notice (**Notice**) dated [ • ] with respect to the charge over and assignment of the Assignor's rights, title and interest in and to the Account(s).

Terms not defined in this letter shall have the meanings given to them in the Notice.

- 1 We accept the instructions and authorisations contained in the Notice and we undertake to act in accordance and comply with the terms of that Notice;
- 2 We are not aware of any interest of any third party in the Account(s) and will notify you if we become aware of any such interest;
- 3 We have neither claimed nor exercised nor will claim nor exercise any security interest, set-off, counterclaim or other rights in respect of the Account(s) the sums therein or the debts represented thereby; and
- 4 We shall not permit any amount to be withdrawn from the Account(s) without your prior written consent, save as we otherwise agree with you.

This letter is governed by, and shall be construed in accordance with the laws of England and Wales.

Yours faithfully,

---

Authorised Signatory

For and on behalf of [Account Bank]

## SCHEDULE 7

### Form of Notice of Assignment of Unblocked Account and Acknowledgement

#### Part 1 - Notice of Assignment

[Date]

To: [Insert Addressee details]

Attention: [ ]

Re: Our Account(s) numbered [•] (the **Account(s)**)

Dear Sirs,

We hereby give you notice that by a Debuture (the **Deed**) dated [•] 2023, (a copy of which is attached hereto) we have charged and assigned in favour of The Governor and the Company of The Bank of Ireland (the **Assignee**, which term includes its successors and assigns) all our rights, title and interest in the Account(s) together with all monies standing to the credit of the Account(s) from time to time.

Please note that the Assignee has been irrevocably appointed by ourselves as our true and lawful attorney to do (inter alia) all acts and things which we could do and to act in relation to the administration or enforcement or attempted enforcement of the Assignment and you are required to follow all instructions that the Assignee may give to you in accordance with the terms of the Assignment.

We hereby irrevocably authorise and instruct you:

- 1 to disclose to the Assignee without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, such information relating to the Account[s] and the sums therein as the Assignee may at any time and from time to time request;
- 2 from when you receive notice from the Assignee that it is enforcing its security under the Deed:
  - 2.1 that we are not permitted to withdraw any amount from the Account[s] without the prior written consent of the Assignee;
  - 2.2 to hold all sums from time to time standing to the credit of the Account[s] to the order of the Assignee;
  - 2.3 to pay or release all or any part of the sums from time to time standing to the credit of the Account[s] in accordance with the written instructions of the Assignee at any time or times; and
  - 2.4 to comply with the terms of the written notice or instructions in any way relating to, or purporting to relate to the Deed, the sums standing to the credit of the Account[s] from time to time or the debts represented thereby which you receive at any time from the Assignee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions.

Please note that these instructions are not to be revoked or varied without the prior written consent of the Assignee.

This letter is governed by, and shall be construed in accordance with, the laws of England and Wales.

Please confirm your agreement to the above by sending the attached acknowledgement to the Assignee with a copy to ourselves.

Yours faithfully,

---

**Authorised Signatory**

For and on behalf of **[The Chargors]**

## Part 2 – Acknowledgment of Assignment

(On headed notepaper of relevant Account Bank)

[Date]

To: [Insert addressee details]

Re: Account(s) numbered [●] (the Account(s))

In the name of [ ] (the Assignor)

Dear Sirs,

We confirm receipt from [insert name of Assignor] of a notice (**Notice**) dated [ ● ] with respect to the charge over and assignment of the Assignor's rights, title and interest in and to the Account(s).

Terms not defined in this letter shall have the meanings given to them in the Notice.

- 3 We accept the instructions and authorisations contained in the Notice and we undertake to act in accordance and comply with the terms of that Notice;
- 4 We are not aware of any interest of any third party in the Account(s) and will notify you if we become aware of any such interest;
- 5 We have neither claimed nor exercised nor will claim nor exercise any security interest, set-off, counterclaim or other rights in respect of the Account(s) the sums therein or the debts represented thereby.

This letter is governed by, and shall be construed in accordance with, the laws of England and Wales.

Yours faithfully,

---

Authorised Signatory

For and on behalf of [Account Bank]

## SCHEDULE 8

### Part 1 Share Transfer Form

<b>STOCK TRANSFER FORM</b>			
	Consideration Money: [£]	Certificate lodged with the Registrar	
		(For completion by the Registrar/Stock Exchange)	
	Full name of Undertaking		
	Description of Security	Ordinary Shares	
	Number or amount of Shares, Stock or other security and, in figures column only, number and denomination of units, if any.	Words	Figures
	<p>Name(s) of registered holder(s) should be given in full: the address should be given where there is only one holder.</p> <p>If the transfer is not made by the registered holder(s) insert also the name(s) and capacity (e.g., Executor(s)) of the person(s) making the transfer.</p>	In the name(s) of	
	<p>(Delete words in italics except for stock exchange transactions)</p>	<p>I/We hereby transfer the above security out of the name(s) aforesaid to the person(s) named below or to the several persons named in Parts 2 of <i>Brokers Transfer Forms relating to the above security</i>.</p> <p>Signature(s) of transferor(s):</p>	<p><b>Stamp of Selling Broker(s) or, for transactions which are not stock exchange transactions, of Agent(s), if any, acting for the Transferor(s).</b></p>   <p>Date .....</p>
		<i>[INSERT EXECUTION BLOCK OF TRANSFEROR]</i>	
	<p>A body corporate should execute this transfer under its common seal or otherwise in accordance with applicable statutory requirements.</p>		
	<p>Full name(s) and full postal address(es) (including County or, if applicable, Postal District number) of the person(s) to whom the security is transferred.</p> <p>Please state title, if any, or whether Mr., Mrs. or Miss.</p> <p>Please complete in typewriting or in Block Capitals.</p>		
	I/We request that such entries be made in the register as are necessary to give effect to this transfer.		
	Stamp of Buying Broker(s) (if any).		Stamp or name and address of person lodging this form (if other than the Buying Broker(s)).

1. *Endorsement for use only in stock exchange transactions)*

2. The security represented by the transfer overleaf has been sold as follows: —

Shares/Stock  
Shares/Stock  
Shares/Stock  
Shares/Stock

Shares/Stock  
Shares/Stock  
Shares/Stock  
Shares/Stock

Balance (if any) due to Selling Broker(s)

Amount of Certificate(s)

Brokers Transfer Forms for above amount certified

*Stamp of certifying Stock Exchange*

*Stamp of Selling Brokers(s)*

**CERTIFICATE 1: FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS EXEMPT FROM AD VALOREM STAMP DUTY AS BELOW THRESHOLD**

\* Please delete as appropriate

I/We\* certify that the transaction effected by this instrument does not form part of a larger transaction or series of transactions in respect of which the amount or value, or aggregate amount or value, of the consideration exceeds £1,000.

\*\* Delete second sentence if certificate is given by transferor

I/We\* confirm that I/we \* have been duly authorised by the transferor to sign this certificate and that the facts of the transaction are within my/our \* knowledge. \*\*

*Signature(s)*

*\*Description: ("Transferor", "Solicitor", etc.)*

*Date*

**CERTIFICATE 2: FORM OF CERTIFICATE REQUIRED WHERE TRANSFER IS OTHERWISE EXEMPT OR THE CONSIDERATION GIVEN IS NOT CHARGEABLE CONSIDERATION**

\* Please delete as appropriate

I/We\* certify that this instrument is otherwise exempt from *ad valorem* stamp duty without a claim for relief being made or that no chargeable consideration is given for the transfer for the purposes of stamp duty.

\*\* Delete second sentence if certificate is given by transferor

I/We\* confirm that I/we\* have been duly authorised by the transferor to sign this certificate and that the facts of the transaction are within my/our\* knowledge. \*\*

*Signature(s)*

*\*Description: ("Transferor", "Solicitor", etc.)*

*Date*

**NOTES**

- (1) If one of the above certificates has been completed, or if the consideration for the transfer is nil (in which case you must write "nil" in the consideration box on the front of the form), this transfer does not need to be submitted to the Stamp Office but should be sent directly to the Company or its Registrars.
- (2) If neither of the above certificates has been completed, and the consideration for the transfer is not nil, this transfer must be submitted to the Stamp Office and duly stamped.



## Part 2 Director's Letter of Resignation

Date:

The Board of Directors

[       ]

Dear Sirs,

### **Resignation of Director**

I hereby resign as director of the Company and confirm that I have no claims against the Company for loss of office, arrears of pay or otherwise howsoever.

This resignation is to be effective as at the date specified above. You are hereby authorised to complete this letter by dating the same at any time after you are notified by the Security Trustee that an Event of Default has occurred.

**Signed and Delivered** as a deed

By

---

—  
[Director]

---

Signature of Witness

---

Name of Witness

---

Address of Witness

---

Occupation of Witness

Date: [DATE]

### Part 3 Directors Letter of Authority

**To:** The Governor and The Company of the Bank of Ireland (together with its successors and permitted assigns, the **Security Trustee**)

Dear Sirs

I hereby unconditionally and irrevocably authorise you to date the letter of resignation delivered by me to you under the debenture dated [●] 2023 between the Security Trustee and [●] in respect of shares held in the capital of [●] 2023 (the [●]) as and when you become entitled to date such letter under the terms of the [●].

**Signed and Delivered** as a deed

By

\_\_\_\_\_  
—  
[Director]

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Address of Witness

\_\_\_\_\_  
Occupation of Witness

Date: [DATE]

## Part 4 Special Resolutions

[Insert Company details]

(the **Company**)

### SPECIAL RESOLUTIONS

Pursuant to Chapter 2 of Part 12 of the Companies Act 2006, we, the undersigned, being all the members for the time being entitled to attend and vote at a general meeting of the Company hereby unanimously resolve, and to the Company's Articles of Association that the following resolutions be deemed passed as special resolutions:

- 1 **IT IS HEREBY RESOLVED THAT** the following be inserted into the Company's Articles of Association after Regulation [ ] as a new Regulation [ ] and by the re-numbering of all subsequent [Articles]/[Regulations] appearing thereafter:

"X The Company's first and paramount lien on every share called or payable at a fixed time in respect of that share and the extension of that lien to all dividends payable thereon shall not apply where any such shares have been mortgaged or charged by way of security in which event such lien shall rank behind any such security."

- 2 **IT IS HEREBY RESOLVED THAT** the following Regulation be inserted into the Company's Articles of Association after the newly renumbered Regulation [ ] as a new Regulation [ ] and by the re-numbering of all subsequent Regulations appearing thereafter:

"[ ] Notwithstanding anything contained in these Articles, the Directors shall promptly register any transfer of shares and shall not suspend registration thereof where such transfer:-

- 2.1 is to any bank or institution to whom such shares have been charged by way of security or to any nominee or any transferee of such bank or institution (a **Secured Institution**); or
- 2.2 is delivered to the Company for registration by a Secured Institution or its nominee in order to register the Secured Institution as legal owner of the shares; or
- 2.3 is executed by a Secured Institution or its nominee pursuant to the power of sale or other power under such security,

and furthermore, notwithstanding anything to the contrary contained in these Articles or in any agreement or arrangement applicable to any shares in the Company, no transferor or proposed transferor of any such shares to a bank, institution or to any third party to which such shares have been charged by way of security or to any nominee or any transferee of a Secured Institution or its nominee and no Secured Institution or its nominee (each a **Relevant Person**), shall be required to obtain the approval of the Directors or be subject to, or obliged to comply with, any rights of pre-emption contained in these Regulations or any such agreement or arrangement nor shall any Relevant Person be otherwise required to offer the shares which are or are to be the subject of any transfer as aforesaid to the shareholders for the time being of the Company or any of them, and no such shareholder shall have any right under the Regulations or otherwise howsoever to require such shares to be transferred to them whether for consideration or not. No resolution shall be proposed or passed the effect of which would be to delete or amend this regulation unless not less than 45 days' written notice thereof shall have been given to any such Secured Institution by the Company."

Dated the            day of            2023

[Shareholder]

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[Shareholder]