



Registration of a Charge

Company name: **ADAMS FOODS LIMITED**

Company number: **00362221**



X52UTBSP

Received for Electronic Filing: **16/03/2016**

Details of Charge

Date of creation: **15/03/2016**

Charge code: **0036 2221 0004**

Persons entitled: **JOHN FEELY, JOHN O'MOORE, NICHOLAS SIMMS, STEPHEN O'BRIEN, MICHAEL MCGOVERN IN THEIR CAPACITY AS TRUSTEES OF THE SCHEME AND BEING THE TRUSTEES OF THE ORNUA SUPERANNUATION SCHEME (PREVIOUSLY KNOWN AS THE IRISH DAIRY BOARD SUPERANNUATION SCHEME)(THE CHARGE)**

Brief description: **AS A CONTINUING SECURITY FOR THE PAYMENT AND DISCHARGE OF THE PRINCIPAL EMPLOYER'S OBLIGATIONS, THE CHARGOR WITH FULL TITLE GUARANTEE CHARGES TO THE CHARGE: (A) BY WAY OF FIRST LEGAL MORTGAGE THE PROPERTY. "PROPERTY" MEANS ALL THAT FREEHOLD PROPERTY BEING PART OF ADAMS FOOD LIMITED (FORMERLY THE KERRYGOLD COMPANY LIMITED) SITE AT SUNNYHILLS ROAD, LEEK, ST13 5SP AS SHOWN EDGED RED ON THE PLAN ATTACHED TO THE THIRD PARTY LEGAL MORTGAGE BEING THE LAND REMAINING COMPRISED IN AND REGISTERED WITH TITLE ABSOLUTE UNDER TITLE NUMBER SF516183 FOLLOWING A TRANSFER OF EVEN DATE HEREWITH MADE BETWEEN (1) ADAMS FOOD LIMITED AND (2) ADAMS FOOD INGREDIENTS LIMITED INCLUDING: (A) ALL FIXTURES AND FITTINGS (B) ALL ADDITIONS, ALTERATIONS AND IMPROVEMENTS.**

Contains fixed charge(s).

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: **NATALIE BARNES**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 362221

Charge code: 0036 2221 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th March 2016 and created by ADAMS FOODS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th March 2016 .

Given at Companies House, Cardiff on 17th March 2016

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

15 March

2016

(1) ADAMS FOODS LIMITED

and

(2) JOHN FEELY, JOHN O'MOORE, NICHOLAS SIMMS, STEPHEN O'BRIEN, MICHAEL
MCGOVERN BEING THE TRUSTEES OF ORNUA SUPERANNUATION SCHEME

THIRD-PARTY LEGAL MORTGAGE OVER PROPERTY

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THIS DEED is dated

15 march

2016

PARTIES

1. **ADAMS FOODS LIMITED** incorporated and registered in England and Wales with company number 362221 whose registered office is at Sunnyhills Road, Leek, ST13 5SP ("the **Chargor**") and
2. **JOHN FEELY, JOHN O'MOORE, NICHOLAS SIMMS, STEPHEN O'BRIEN, MICHAEL MCGOVERN** in their capacity as trustees of the scheme and being the trustees at the date of this deed of **ORNUA SUPERANNUATION SCHEME (previously known as the IRISH DAIRY BOARD SUPERANNUATION SCHEME)** all c/o Trustee Principles Ltd, Grand Mill Quay, Barrow Street, Dublin 4 ("the **Chargee**").

Background

The Principal Employer for the purposes of the Scheme has agreed, under the Funding Agreement, to provide security from the Chargor to secure the Principal Employer Obligations on the terms set out below.

The Chargor is a subsidiary of the Principal Employer

The Chargor owns the Property.

The recourse to the Chargor under this deed shall be limited to the Property.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Funding Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Delegate	any person appointed by the Chargee or any Receiver under clause 14 and any person appointed as attorney of the Chargee, Receiver or Delegate.
Environment	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

Environmental Claim	means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law
Environmental Law	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.
Environmental Licence	any authorisation, permit or licence necessary under Environmental Law in respect of the Property.
Funding Event	has the meaning given to that expression in the Funding Agreement.
Funding Agreement	the funding agreement dated [DATE] between the Principal Employer and the Chargee in connection with the Scheme.
Finance Documents	means this Deed and the Funding Agreement.
Fixtures	means all fixtures and fittings (including trade fixtures and fittings)
Insurance Policy	each contract or policy of insurance effected or maintained by the Chargor from time to time in respect of the Property.
LPA 1925	the Law of Property Act 1925.
Property	the freehold property owned by the Chargor described in Schedule 1.
Principal Employer	means Ornuia Co-Operative Limited (previously known as Irish Dairy Board Co-operative Limited) an industrial and provident society registered under the Industrial and Provident Societies Acts 1893 to 2005 of Ireland with registration number 3221 R and having its registered office at Grattan House, Lower Mount Street, Dublin 2
Principal Employer Obligations	means all monies, obligations and liabilities whether certain or contingent which now are or at any time hereafter may be due owing or incurred by the Principal Employer to the Chargee under or pursuant to the Funding Agreement and/or this Deed strictly subject to the limit on recourse in Clause 2.2 of this deed and any reference to the Principal Employer Obligations includes a reference to any of them

Receiver	means any one or more receivers and/or managers appointed by the Chargee over all or part of the Property.
Rights	any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.
Scheme	means the Irish Ornua Superannuation Scheme established by trust deed dated 20 th September 1965 made between the Principal Employer (then known as "An Bord Baine") of the one part and the then trustees of the Irish Dairy Board Superannuation Scheme of the other part and now governed by the Trust Deed and Rules
Security	means the security from time to time constituted, or intended to be constituted, by this deed and any reference to Security shall include a reference to each and every part thereof
Security Interest	means any mortgage, pledge, lien, charge, assignment, encumbrance, right in security, security interest, trust arrangement for the purpose of providing security, retention of title arrangement, or any other agreement or arrangement that is analogous to any of the foregoing, or any other agreement or arrangement having a similar effect
Security Period	means the period starting on the date of this deed and ending on the date when all of the Principal Employers Obligations have been finally and indefeasibly paid and discharged in full and the Funding Agreement has been terminated
Trust Deed and Rules	means the trust deed and rules relating to the Scheme dated 19 th February 2008 (as amended, supplemented, varied or replaced from time to time)
VAT	value added tax.

1.2 Interpretation

In this deed:

- (a) Clause, Schedule and paragraph headings shall not affect the interpretation of this deed;

- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) the "**Principal Employer**", the "**Chargee**" or any "**Party**" or other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the "**Chargee**, any" shall include all other persons who are for the time being the trustees of the Scheme who shall be entitled to enforce and proceed upon this Deed and the security hereby constituted and exercise all powers and discretions hereby conferred as if named in this deed;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to **writing** or **written** includes e-mail but not fax;
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (k) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (l) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (m) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (n) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (o) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

- (p) Any Schedules to this deed form an integral part of this deed.
- (q) A Funding Event is "continuing" if it has not been remedied to the satisfaction of the Chargee or waived in writing by the Chargee
- (r) Unless the context otherwise requires, a reference to all or any part of the Property includes:
 - a) any part of that Property;
 - b) any beneficial interest in it
 - c) all rights to be paid or receive compensation under any statute or enactment by reason of any compulsory acquisition or other exercise of compulsory or similar powers in relation to that Property by any local or other authority or government agency or body or any refusal, withdrawal or modification of any planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of that Property;
 - d) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property; and
 - e) all rights, powers, benefits, claims, contracts, warranties, remedies, Security interests, guarantees, indemnities, covenants, agreements or undertakings in respect of that Property.

1.3 Clawback

If the Chargee considers that an amount paid by the Chargor in respect of the Principal Employer Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, or otherwise then that amount shall not be considered to have been irrevocably paid for the purposes of this deed

1.4 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Finance Documents are incorporated into this deed.

2. COVENANT TO PAY

2.1 Covenant to Pay

The Chargor hereby covenants that it will on demand, pay, perform or discharge the Principal Employer Obligations when they become due for payment, performance or discharge in accordance with the terms of the Funding Agreement.

2.2 Limited Recourse

Notwithstanding any other provision of the Finance Documents, it is expressly agreed and declared and understood that:

- (a) the sole recourse of the Chargee against the Chargor under this deed is to the Chargor's interest in the Property
- (b) The liability of the Chargor to the Chargee pursuant to or otherwise in connection with the Finance Documents shall be:
 - (i) Limited in the aggregate to an amount equal to that recovered as a result of the enforcement of this deed with respect to the Property; and
 - (ii) Satisfied only from the proceeds of sale or other disposal or realisation of the Property pursuant to this deed.

Provided that the maximum aggregate liability of the Chargor under this Deed shall be limited to the Maximum Amount as defined in the Funding Agreement.

3. GRANT OF SECURITY

3.1 Legal Mortgage and Fixed Charges

As a continuing security for the payment and discharge of the Principal Employer's Obligations, the Chargor with full title guarantee charges to the Chargee:

- (a) by way of first legal mortgage the Property; and
- (b) by way of first fixed charge:
 - (i) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy;
 - (ii) the benefit of all other contracts, guarantees, appointments and warranties relating to the Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Property or otherwise relating to the Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);

- (iii) all authorisations (statutory or otherwise) held or required in connection with the Chargor's business carried on at the Property, and all rights in connection with them;

all of the Chargor's rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to the Property or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relating thereto or any control or limitation imposed upon or affecting the use of the Property and so that the production of this deed to the person; liable to pay such compensation shall be sufficient authority to it, him or her to pay such monies to the Chargor.

3.2 Assignment

As a continuing security for the payment and discharge of the Principal Employers Obligations, the Chargor with full title guarantee assigns to the Chargee absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Principal Employers Obligation all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy provided that nothing in this clause 3.2 shall constitute the Chargee as mortgagee in possession.

4. PERFECTION OF SECURITY

4.1 Registration of Legal Mortgage at the Land Registry

The Chargor consents to an application being made by the Chargee to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate [, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction,] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [] referred to in the charges register [or [their conveyancer or specify appropriate details]]."

5. LIABILITY OF THE CHARGOR AND CHARGEES PROTECTIONS

5.1 Liability Not Discharged

Subject to clause 19 the Chargor's liability under this deed in respect of any of the Principal Employer's Obligations shall not be discharged, prejudiced or affected by:

- (a) any intermediate payment, settlement of account or discharge in whole or in part of the Principal Employer's Obligations;
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Chargee may now or after the date of this deed have from or against the Principal Employer, the Chargor or any other person in connection with the Principal Employer's Obligations;
- (c) any act or omission by the Chargee or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Principal Employer, the Chargor or any other person;
- (d) any termination, amendment, variation, novation, replacement or supplement of or to any of the Principal Employer's Obligations including without limitation any changes in the purpose of, any increase in, or extension of the Principal Employer Obligations and any addition of new Principal Employer Obligations
- (e) any grant of time, indulgence, waiver or concession to the Principal Employer, the Chargor or any other person;
- (f) any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Principal Employer, the Chargor or any other person;
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Principal Employer, the Chargor or any other person in connection with the Principal Employer's Obligations;
- (h) any claim or enforcement of payment from the Principal Employer, the Chargor or any other person; or
- (i) any other act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargor or otherwise reduce or extinguish its liability under this deed.

5.2 Immediate Recourse

The Chargor waives any right it may have to require the Chargee:

- (a) to take any action or obtain judgment in any court against the Principal Employer or any other person;
- (b) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Principal Employer or any other person; or
- (c) to make demand, enforce or seek to enforce any claim, right or remedy against the Principal Employer or any other person,

before taking steps to enforce any of its rights or remedies under this deed.

5.3 Non-competition

The Chargor warrants to the Chargee that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Principal Employer, its liquidator, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Chargor under this deed but:

- (a) if any of the Rights is taken, exercised or received by the Chargor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Chargor on trust for the Chargee for application in or towards the discharge of the Principal Employer Obligations under this deed; and
- (b) on demand by the Chargee, the Chargor shall promptly transfer, assign or pay to the Chargee all Rights and all monies from time to time held on trust by the Chargor under this clause 5.3.

6. REPRESENTATIONS AND WARRANTIES

6.1 Times for Making Representations and Warranties

The Chargor makes the representations and warranties set out in this clause 6 to the Chargee on the date of this deed.

6.2 Due Incorporation

The Chargor:

- (a) is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.

6.3 Powers

The Chargor has the power and authority to enter into, deliver and perform and has taken all necessary action to authorise the entry into, delivery of and performance of its obligations under this deed and the transactions contemplated by it. No limit on its powers will be exceeded as a result of the entry into of this deed.

6.4 Non-contravention

The entry into and performance by it of, and the transactions contemplated by, this deed do not and will not contravene or conflict with:

- (a) The Chargor's constitutional documents;
- (b) any agreement or instrument binding on the Chargor or its assets; or
- (c) any law or regulation or judicial or official order applicable to it.

6.5 Authorisations

The Chargor has taken all necessary action and obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations in this deed and to make it admissible in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

6.6 Binding Obligations

The Chargor's obligations under this deed are legal, valid, binding and enforceable; and

- (a) this deed creates:
 - (i) valid, legally binding and enforceable Security for the obligations expressed to be secured by it; and
 - (ii) subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry, perfected Security over the assets referred to in this deed,

in favour of the Chargee, having the priority and ranking expressed to be created by this deed and ranking ahead of all (if any) Security and rights of third parties, except those preferred by law.

6.7 Litigation

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Chargor's knowledge, threatened against it or the Property which, if adversely determined, is reasonably likely to have an adverse effect on its ability to comply with its obligations under this deed.

6.8 Registration

Subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry and payment of registration fees to Companies House and the Land Registry, it is not necessary to file, record or enroll this deed with any court or other authority or pay any stamp, registration or similar tax in relation to this deed.

6.9 Ownership of the Property

The Chargor is the sole legal and beneficial owner of the Property and has good and marketable title to the Property.

6.10 No Security

The Property is free from any Security and the Security created by this deed.

6.11 No Adverse Claims

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in it.

6.12 No Adverse Covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever that materially and adversely affect the Property.

6.13 No Breach of Laws

There is no breach of any law or regulation, that materially and adversely affects the Property.

6.14 No Interference in Enjoyment

No facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use.

6.15 No Overriding Interests

Nothing has arisen, has been created or is subsisting that would be an overriding interest in the Property.

6.16 No Prohibitions or Breaches

There is no prohibition on the Chargor assigning its rights in any of the Property referred to in clause 3.2 and the entry into of this deed by the Chargor does not and will not constitute a breach of any policy, agreement, document, instrument or obligation binding on the Chargor or its assets.

6.17 Environmental Compliance

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

6.18 Avoidance of Security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

6.19 Valuation and Certificate of Title

- (a) All written information supplied by the Chargor or on its behalf for the purpose of each valuation and certificate of title was true and accurate in all material respects at its date or the date (if any) on which it was stated to be given
- (b) The information referred to at 6.19 (a) was at its date or at the date (if any) on which it was stated to be given complete and the Chargor did not omit to supply any information that if disclosed would adversely affect the valuation or certificate of title
- (c) Nothing has occurred since the date the information referred to at 6.19(a) was supplied and the date of this deed which would adversely affect such valuation and certificate of title.

6.20 Solvency

The Chargor is able to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986 and will remain able to do so following its entry into this deed and it will not become unable to pay its debts as they fall due as a result of entering into this deed

7. GENERAL COVENANTS

7.1 Negative Pledge and Disposal Restrictions

The Chargor shall not at any time, except with the prior written consent of the Chargee:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, the Property other than any Security created by this deed;
- (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or
- (c) create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

Such written consent is not to be unreasonably withheld or delayed.

7.2 Preservation of the Property

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Chargee or materially diminish the value of any of the Property or the effectiveness of the security created by this deed.

7.3 Compliance With Laws and Regulations

- (a) The Chargor shall not, without the Chargee's prior written consent, use or permit the Property to be used in any way contrary to law.
- (b) The Chargor shall:
 - (i) comply with the requirements of any law or regulation relating to or affecting the Property or the use of it or any part of it;
 - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Property or its use or that are necessary to preserve, maintain or renew any Property; and
 - (iii) promptly effect any maintenance, modifications, alterations or repairs to be effected on or in connection with the Property that are required to be made by it under any law or regulation.

7.4 Enforcement of Rights

The Chargor shall use its best endeavours to:

- (a) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Chargor and forming part of the Property of the covenants and other obligations imposed on such counterparty; and

- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Property that the Chargee may require from time to time.

7.5 Notice of Misrepresentations and Breaches

The Chargor shall, promptly on becoming aware of any of the same, give the Chargee notice in writing of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

7.6 Title Documents

The Chargor shall, on the execution of this deed, deposit with the Chargee and the Chargee shall, for the duration of this deed, be entitled to hold:

- (a) all deeds and documents of title relating to the Property that are in the possession or control of the Chargor (and if these are not within the possession and/or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title); and
- (b) each Insurance Policy.

7.7 Notices to be Given By the Chargor

The Chargor shall within ten days of the execution of this deed give notice to the relevant insurers of the assignment of the Chargor's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.2. and shall procure that each addressee of such notice provides an acknowledgement of that notice to the Lender

7.8 Mortgagor's Waiver of Set-off

The Chargor waives any present or future right of set-off it may have in respect of the Principal Employer's Obligations (including sums payable by the Chargor under this deed).

7.9 Ranking of Obligations

The Chargor's obligations under this deed will, at all times, rank at least pari passu with all its other indebtedness, other than indebtedness preferred by operation of law in the event of its winding-up.

7.10 Authorisations

The Chargor shall obtain all consents and authorisations necessary (and do all that is needed to maintain them in full force and effect) under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this deed and to ensure the legality, validity, enforceability and admissibility in evidence of this deed in its jurisdiction of incorporation.

8. PROPERTY COVENANTS

8.1 Repair and Maintenance

The Chargor shall keep any building, and fixtures and fittings on the Property, in good and substantial repair and condition and shall keep all building adequately and properly painted and decorated and replace any fixtures and fittings which have become worn out or otherwise unfit for use with others of a like nature and equal value provided that nothing in this Clause shall require the Chargor to put the Property or any part of it in any better state of repair or condition as it currently is.

8.2 No Alterations

The Chargor shall not, without the prior written consent of the Chargee, pull down or remove the whole or any part of any building forming part of the Property nor permit the same to occur

8.3 Development Restrictions

The Chargor shall not, without the prior written consent of the Chargee make or, in so far as it is able, permit or suffer others to change the use of or make any application for change of use of the Property.

8.4 Insurance

- (a) The Chargor shall insure and keep insured the Property including all Fixtures and any improvements and the plant and machinery therein against those risks and to the extent as a reasonably prudent person carrying on the same class of business against all risks of loss or damage to the Property such policy to be in a form and content acceptable to the Chargee.
- (b) Any such insurance must be on a full reinstatement basis of the Property and include rebuilding, reinstating or replacing the premises including plant and machinery in the

event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges and VAT for demolition, site clearance and reinstatement.

- (c) The Chargor shall, if requested by the Chargee, produce to the Chargee each policy, certificate or cover note relating to any insurance required by clause 8.4(a) and premium receipts.
- (d) The Chargor shall, if requested by the Chargee, procure that a note of the Chargee's interest is endorsed upon on the Insurance Policy maintained by it.

8.5 Insurance Premiums

The Chargor shall promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that policy in full force and effect.

8.6 No Invalidation of Insurance

The Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy.

8.7 Proceeds From Insurance Policies

All monies payable under any Insurance Policy at any time (whether or not the security constituted by this deed has become enforceable) shall be held by the Chargor as trustee of the same for the benefit of the Chargee.

8.8 Leases and Licences Affecting the Property

The Chargor shall not, without the prior written consent of the Chargee (which consent is not to be unreasonably withheld or delayed):

- (a) grant any licence or tenancy affecting the whole or any part of the Property, or exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);
- (b) in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property);
- (c) let any person into occupation of or share occupation of the whole or any part of the Property; or

(d) grant any consent or licence under any lease or licence affecting the Property.

8.9 No Restrictive Obligations

The Chargor shall not, without the prior written consent of the Chargee, enter into any onerous or restrictive obligations affecting the whole or any part of the Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of the Property.

8.10 Proprietary Rights

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of the Property, without the prior written consent of the Chargee.

8.11 Compliance With and Enforcement of Covenants

The Chargor shall:

- (a) observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if the Chargee so requires) produce to the Chargee evidence sufficient to satisfy the Chargee that those covenants, stipulations and conditions have been observed and performed; and
- (b) diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same.

8.12 Notices or Claims Relating to the Property

The Chargor shall give full particulars to the Chargee of any material Environmental Claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to the Property or circumstances reasonably likely to result in a material Environmental Claim.

8.13 Environment

The Chargor shall in respect of the Property:

- (a) comply in all material respects with all the requirements of Environmental Law; and
- (b) obtain and comply in all material respects with all Environmental Licences required by the Chargor in respect of the Property.

8.14 Inspection

The Chargor shall permit the Chargee and any Receiver or other person appointed by either of them to enter on to and inspect the Property on reasonable written prior notice

9. POWERS OF THE CHARGE

9.1 Power to Remedy

- (a) The Chargee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this deed.
- (b) The Chargor irrevocably authorises the Chargee and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Chargee in remedying a breach by the Chargor of its obligations contained in this deed shall be reimbursed by the Chargor to the Chargee on a full indemnity basis within three Business Days of demand and pending payment will constitute part of the Principal Employer Obligations.

9.2 Exercise of Rights

The rights of the Chargee under clause 9.1 are without prejudice to any other rights of the Chargee under this deed. The exercise of any rights of the Chargee under this deed shall not make the Chargee liable to account as a mortgagee in possession.

9.3 Lender Has Receiver's Powers

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Chargee in relation to any of the Property whether or not it has taken possession of any Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

9.4 New Accounts

If the Chargee receives or is deemed to have received notice of any subsequent security or other interest affecting all or any part of the Property the Chargee may open a new account for the Chargor in the Chargee's books. Without prejudice to the Chargee's right to combine accounts no money paid to the credit of the Chargor in any such new account shall be appropriated towards or have the effect of discharging any part of the Principal Employer's Obligations

9.5 Indulgence

The Chargee may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any person is jointly liable with the Chargor) in respect of any of the Principal Employer's Obligations.

10. WHEN SECURITY BECOMES ENFORCEABLE

10.1 Security Becomes Enforceable on a Funding Event

The security constituted by this deed shall be immediately enforceable if an Funding Event occurs and is continuing and for the purposes of this clause 10.1 "continuing" shall mean that a "Funding Event" has not been remedied to the satisfaction of the Chargee or waived in writing by the Chargee.

10.2 Discretion

After the security constituted by this deed has become enforceable, the Chargee may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Property.

11. ENFORCEMENT OF SECURITY

11.1 Enforcement Powers

The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) on the Chargee, arise on and are exercisable at any time after the execution of this deed, but the Chargee shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 10.1

Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

11.2 Extension of Statutory Powers of Leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Chargee and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Chargor, to:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or

- (c) grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Chargee or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

11.3 Prior Security

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Chargee may:

- (a) redeem that or any other prior Security;
- (b) procure the transfer of that Security to itself; and
- (c) settle any account of the holder of any prior Security.

The settlement of any such account shall be, in the absence of any manifest error, conclusive and binding on the Chargor. All monies paid by the Chargee to an encumbrancer in settlement of such an account shall be, as from its payment by the Chargee, due from the Chargor to the Chargee on current account and shall bear interest

11.4 Protection of Third Parties

No purchaser, mortgagee, or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

- (a) Whether any of the Principal Employers Obligations have become due or payable or remain unpaid or undischarged
- (b) Whether any power of the Chargee, a Receiver or Delegate is purporting to exercise has become exerciseable or is properly exercisable;
- (c) How any money paid to the Lender, any Receiver or any Delegate is to be applied; or
- (d) As to the status, propriety or validity of any act of any of them

11.5 Conclusive discharge to purchasers

The receipt of the Chargee, or any Receiver or Delegate shall be an absolute and conclusive discharge to a purchaser and shall relieve that purchaser of any obligation to see the application of any monies paid to or at the direction of the Chargee, any Receiver or any Delegate

11.6 Privileges

Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

11.7 No Liability As Mortgagee in Possession

Neither the Chargee, any Receiver nor any Delegate shall be liable to account as mortgagee in possession in respect of all or any part of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any part of the Property for which a mortgagee in possession might be liable as such.

11.8 Relinquishing Possession

If the Chargee, any Receiver or Delegate enters into or takes possession of the Property, it or he may at any time relinquish possession.

12. RECEIVERS

12.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Chargor, the Chargee may, without further notice, appoint by way of deed, or otherwise in writing, any one or more person or persons to be a Receiver of all or any part of the Property.

12.2 Removal

The Chargee may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

12.3 Remuneration

The Chargee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

12.4 Power of Appointment Additional to Statutory Powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Chargee under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

12.5 Power of Appointment Exercisable Despite Prior Appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Chargee despite any prior appointment in respect of all or any part of the Property.

12.6 Agent of the Chargor

Any Receiver appointed by the Chargee under this deed shall be the agent of the Chargor and the Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Chargee.

13. POWERS OF RECEIVER

13.1 Powers Additional to Statutory Powers

- (a) Any Receiver appointed by the Chargee under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 13.2 to clause 13.19.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of the Chargor, the directors of the Chargor or himself.

13.2 Repair and Develop the Property

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission,

development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

13.3 Grant or Accept Surrenders of Leases

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms and subject to any conditions that he thinks fit.

13.4 Employ Personnel and Advisers

A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

13.5 Make and Revoke VAT Options to Tax

A Receiver may exercise or revoke any VAT option to tax that he thinks fit.

13.6 Charge for Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Chargee may prescribe or agree with him.

13.7 Realise the Property

A Receiver may collect and get in the Property or any part of it in respect of which he is appointed and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Property with like rights.

13.8 Dispose of the Property

A Receiver may grant options and licences over all or any part of the Property, grant any other interest or right over, sell, assign or lease (or concur in granting options and licences over all or any part of the Property, granting any other interest or right over, selling, assigning or leasing) all or any of the Property in respect of which he is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions that he thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Property to be disposed of by him.

13.9 Sever Fixtures and Fittings

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of the Chargor.

13.10 Give Valid Receipts

A Receiver may give valid receipts for all monies and execute all assurances and things that may be proper or desirable for realising any of the Property.

13.11 Make Settlements

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient.

13.12 Bring Proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Property that he thinks fit.

13.13 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 16.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed.

13.14 Powers Under LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925 and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

13.15 Borrow

A Receiver may, for any of the purposes authorised by this clause 13, raise money by borrowing from the Chargee (or from any other person) either unsecured or on the security of all or any of the Property in respect of which he is appointed on any terms that he thinks fit (including, if the Chargee consents, terms under which that Security ranks in priority to this deed).

13.16 Redeem Prior Security

A Receiver may redeem any prior Security and settle the accounts to which the Security relates. Any accounts so settled shall be, in the absence of any manifest error, conclusive

and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

13.17 Delegation

A Receiver may delegate his powers in accordance with this deed.

13.18 Absolute Beneficial Owner

A Receiver may, in relation to any of the Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Property or any part of the Property.

13.19 Incidental Powers

A Receiver may do any other acts and things:

- (a) that he may consider desirable or necessary for realising any of the Property;
- (b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) that he lawfully may or can do as agent for the Chargor.

14. DELEGATION

14.1 Delegation

The Chargee or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 18).

14.2 Terms

The Chargee and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

14.3 Liability

Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate save in the case of fraud or wilful deceit

15. APPLICATION OF PROCEEDS

15.1 Order of Application of Proceeds

All monies received by the Chargee, a Receiver or a Delegate under this deed after the security constituted by this deed has become enforceable (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Chargee (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of or provision for the Principal Employer's Obligations in any order and manner that the Chargee determines; and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.

15.2 Appropriation

Neither the Chargee, any Receiver nor any Delegate shall be bound (whether by virtue of section 109 (8) of the Law of property Act 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between the Principal Employer's Obligations

15.3 Suspense Account

All monies received by the Chargee, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Principal Employer's Obligations):

- (a) may, at the discretion of the Chargee, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) may be held in that account for so long as the Chargee, Receiver or Delegate thinks fit.

16. COSTS AND INDEMNITY

16.1 Costs

Subject to the limitation on recourse in clause 2.2 the Chargor shall, within five Business Days of demand, pay to, or reimburse, the Chargee and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) properly incurred by the Chargee, any Receiver or any Delegate in connection with:

- (a) this deed or the Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Chargee's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or enforcing, any of the Principal Employer's Obligations Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate and in the manner specified in the Funding Agreement.

16.2 Indemnity

Subject to the limit on recourse in clause 2.2 the Chargor shall indemnify the Chargee, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Chargor in performing any of its obligations under this deed.

17. FURTHER ASSURANCE

17.1 The Chargor shall, at its own expense, take whatever action the Chargee or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security intended to be created by this deed;
- (b) facilitating the realisation of any of the Property; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Chargee or any Receiver in respect of any of the Property,

17.2 including, without limitation (if the Chargee or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Property (whether to the Chargee or to its nominee) and the giving of any notice, order or direction and the making of any registration.

18. POWER OF ATTORNEY

18.1 Appointment of Attorneys

By way of security, the Chargor irrevocably appoints the Chargee, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed following the occurrence of an Enforcement Event to execute any documents and do any acts and things that:

- (a) the Chargor is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Chargee, any Receiver or any Delegate.

18.2 Ratification of Acts of Attorneys

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in this Deed.

19. RELEASE

Subject to clause 25.3, on the expiry of the Security Period (but not otherwise), the Chargee shall, at the request and cost of the Chargor, take whatever action is necessary to:

- (a) release the Property from the security constituted by this Deed; and

- (b) re-assign the Property to the Chargor.

20. ASSIGNMENT

- 20.1** The Chargor is not entitled to assign, transfer, novate or otherwise dispose of, or create a security interest over all or any of its rights, title, interest, benefits or obligations under this deed without the written consent of the Chargee
- 20.2** The benefit of this deed shall enure for the benefit of all persons who are for the time being trustees of the Scheme who shall be entitled to proceed upon and enforce this deed and the security hereby constituted and exercise all powers and discretions conferred as if named in this deed
- 20.3** Notwithstanding 20.2 the Chargee may not assign or transfer any of its rights or obligations under this deed without the written consent of the Chargor.

21. AMENDMENTS, WAIVERS AND CONSENTS

21.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

21.2 Waivers and Consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure to exercise or a delay in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Chargee shall be effective unless it is in writing.

21.3 Rights and Remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

22. SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

23. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

24. THIRD PARTY RIGHTS

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25. FURTHER PROVISIONS

25.1 Independent Security

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Chargee may hold for any of the Principal Employer's Obligations at any time. No prior security held by the Chargee over the whole or any part of the Property shall merge in the security created by this deed.

25.2 Continuing Security

Subject to clause 19, the security constituted by this deed shall remain in full force and effect as a continuing security for the Principal Employer's Obligations, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Chargee discharges this deed in writing.

25.3 Discharge Conditional

Any release, discharge or settlement between the Chargor and the Chargee shall be deemed conditional on no payment or security received by the Chargee in respect of the Principal Employer's Obligations being avoided, reduced or ordered to be refunded under

any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) The Chargee or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Property, for any period that the Chargee deems necessary to provide the Chargee with security against any such avoidance, reduction or order for refund; and
- (b) The Chargee may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

25.4 Certificates

A certificate or determination by the Chargee as to any amount for the time being due to it from the Chargor under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

25.5 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

26. NOTICES

26.1 Delivery

Any notice or other communication given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by e-mail; and
- (c) sent to:
 - (i) the Chargor at:

Grattan House, Lower Mount Street, Dublin 2, Ireland

e-mail: John McRedmond <JMcRedmond@idb.ie>

Attention: Mr John Mc Redmond
 - (ii) the Chargee at:

Grattan House, Lower Mount Street, Dublin 2, Ireland

Attention: Stephen O'Brien

e-mail : Stephen.O'Brien@idb.ie

or to any other address or e-mail address as is notified in writing by one party to the other from time to time.

26.2 Receipt By Chargor

Any notice or other communication that the Chargee gives to the Chargor shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address;
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- (c) if sent by e-mail, when received in legible form.

A notice or other communication given as described in clause 25.2 (a) or clause 25.2 (c) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

26.3 Receipt By Chargee

Any notice or other communication given to the Chargee shall be deemed to have been received only on actual receipt.

26.4 Service of Proceedings

This clause 25 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26.5 No Notice By E-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail.

27. GOVERNING LAW AND JURISDICTION

27.1 Governing Law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Chargee to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

27.3 Other Service

The Chargor irrevocably consents to any process in any legal action or proceedings under clause 25.4 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

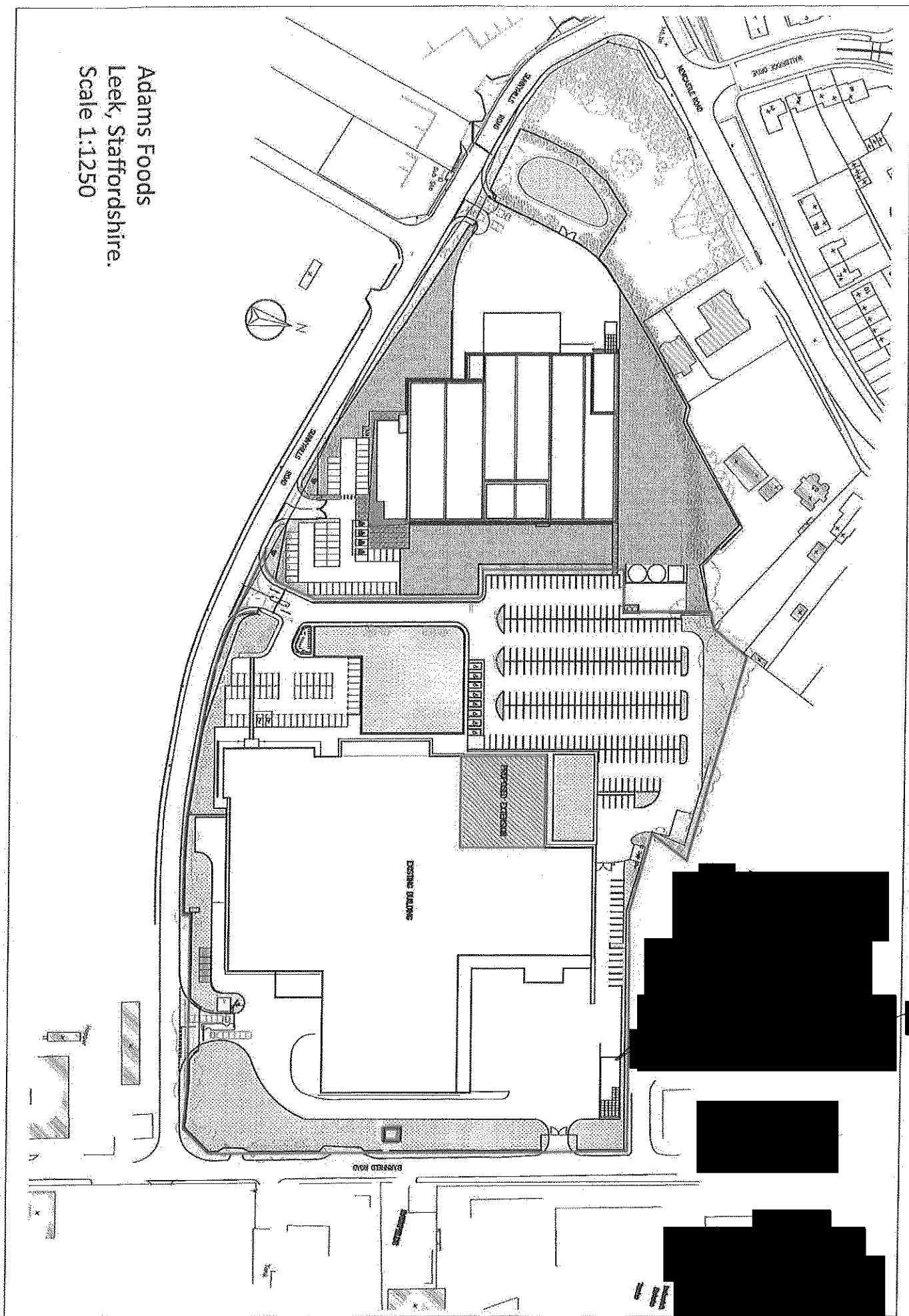
This agreement has been entered into as a deed on the date stated at the beginning of it.

SCHEDULE 1 – PROPERTY

All that freehold property being part of Adams Food Limited (formerly the Kerrygold Company Limited) site at Sunnyhills Road, Leek ST13 5SP as shown edged red on the plan attached being the land remaining comprised in and registered with title absolute under title number SF516183 following a transfer of even date herewith made between (1) Adams Food Limited and (2) Adams Food Ingredients Limited including:

1. ALL FIXTURES AND FITTINGS
2. ALL ADDITIONS, ALTERATIONS AND IMPROVEMENTS

Adams Foods
Leek, Staffordshire.
Scale 1:1250



Executed as a deed by Chargor acting by ,
a director, in the presence of:

DONAL Buggy

SIGNATURE OF DIRECTOR

Director

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION
OF WITNESS

DEIRDRE DUGGAN
GRATTAN HOUSE
MOUNT STREET LOWER
DUBLIN 2.
LEGAL EXECUTIVE.

Executed as a deed by

JOHN FEELY , in the presence of:

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION
OF WITNESS

STEPHEN O'BRIEN
GRATTAN HOUSE
L.R. MOUNT ST., DL.
ACCOUNTANT

Executed as a deed by

JOHN O'MOORE, in the presence of

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION OF WITNESS

STEPHEN O'BRIEN
GRATTAN HOUSE
L.R. MOUNT ST., DL.
ACCOUNTANT

Executed as a deed by

NICHOLAS SIMMS, in the presence of

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION OF WITNESS

STEPHAN KIBURN
GRATTAN HOUSE
LT. MOUNT ST. D2
ACCOUNTANT

Executed as a deed by

STEPHEN O'BRIEN, in the presence of

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION OF WITNESS

TONY DOLTON
GRATTAN HOUSE, LOWER MOUNT STREET, D2
CHARTERED ACCOUNTANT

Executed as a deed by

MICHAEL MCGOVERN, in the presence of

SIGNATURE OF WITNESS

NAME, ADDRESS AND OCCUPATION OF WITNESS

JANE MCKEEUEK

SOLICITOR