



**Registration of a Charge**

Company Name: **VARFELL FARMS LTD**

Company Number: **03007729**



Received for filing in Electronic Format on the: **12/05/2022**

XB3TRHEH

**Details of Charge**

Date of creation: **29/04/2022**

Charge code: **0300 7729 0020**

Persons entitled: **MAURICE CROUCH (GROWERS) LIMITED**

Brief description:

**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: **MATTHEW SHAKESHEFF**



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

Company number: 3007729

Charge code: 0300 7729 0020

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th April 2022 and created by VARFELL FARMS LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th May 2022 .

Given at Companies House, Cardiff on 16th May 2022

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**

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Dated 29 April 2022

**VARFELL FARMS LIMITED**

and

**MAURICE CROUCH (GROWERS) LIMITED**

## CHATTEL MORTGAGE

*This chattel mortgage is subject to the terms  
of the deed of priority dated ~~29~~<sup>29</sup> April  
2022 entered into between (1) HSBC UK  
Bank plc, (2) Maurice Crouch (Growers)  
Limited and (3) Varfell Farms Limited*

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THIS DEED is made on

29 April 2022

## PARTIES

- (1) **VARFELL FARMS LTD** incorporated and registered in England and Wales with company number 03007729 whose registered office is at Varfell Farm Varfell Lane, Longrock, Penzance, Cornwall, United Kingdom, TR20 8AQ (**Varfell**).
- (2) **MAURICE CROUCH (GROWERS) LIMITED** incorporated and registered in England and Wales with company number 00390616 whose registered office is at 12/13 The Crescent, Wisbech, Cambridgeshire, England, PE13 1EH (**MCG**).

## BACKGROUND

- (1) MCG and Varfell entered into an Asset Purchase Agreement on 18<sup>th</sup> March 2022.
- (2) Under this deed, Varfell provides security to MCG for the Deferred Payments to be made under the Asset Purchase Agreement.

## THE PARTIES AGREE AS FOLLOWS:

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

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

**"Asset Purchase Agreement"** the agreement entered into on 18 March 2022 between inter alia Varfell and MCG whereby Varfell acquired the business of MCG of daffodil growing and certain assets used in that business which includes the Deferred Payments which are secured by this Deed.

**"Assets"** the Stock and the Equipment.

**"Business Day"** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**"Deed of Priority"** means the deed of priority dated ..... April 2022 entered into between (1) HSBC UK Bank plc, (2) Maurice Crouch (Growers) Limited and (3) Varfell Farms Limited.

**"Deferred Payments"** has the meaning set out in clause 3.2 of the Asset Purchase Agreement.

**"Delegate"** any person appointed by MCG or any Receiver pursuant to clause 12, and any person appointed as attorney of MCG, Receiver or Delegate.

**"Equipment"** the equipment, machinery, tools and other items described in Part 1 of Schedule 1, together with all substitutions, replacements or modifications of or to those assets from time to time, and all accessories to those assets from time to time (including any maintenance and other records).

**"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

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structures above or below the ground) and any living organisms (including man) or systems supported by those media.

**"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 insofar as they relate to or apply to the Environment.

**"Environmental Licence"**: any authorisation, permit or licence necessary under Environmental Law in respect of any of the Asser.

**"Event of Default"** any of the events listed in clause 8.1.

**"Guarantor"**: Greosn Limited incorporated and registered in England and Wales with company number 09300360 whose registered office is at Pagham Road, Lagness, Chichester, West Sussex, United Kingdom, PO20 1LL.

**"Insurance Policies"** all the contracts and policies of insurance effected or maintained from time to time in respect of the Assets but only insofar as those policies or the proceeds thereof relate only to the Assets and not any other assets of Varfell.

**"LPA 1925"** the Law of Property Act 1925.

**"Permitted Security"** means the Debenture entered into by Varfell in favour of HSBC UK Bank plc dated 23<sup>rd</sup> March 2020 or any other security provided by Varfell in favour of HSBC UK Bank plc from time to time.

**"Receiver"** a receiver, receiver and manager or administrative receiver appointed by MCG under clause 10.

**"Relevant Agreement"** means all licences, contracts and other agreements to which Varfell is a party from time to time pursuant to which it has the right of access to and/or use of any fields in which the Stock is planted from time to time.

**"Secured Assets"** all the assets, property and undertaking of Varfell which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

**"Secured Liabilities"** the obligations and liabilities of Varfell to MCG in respect of the Deferred Payments or this deed, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

**"Security"** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**"Security Period"** the period starting on the date of this deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

**"Stock"** means the biological stock described in Part 2 of Schedule 1.

1.2 Interpretation: In this deed:

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- 1.2.1 clause and Schedule headings shall not affect the interpretation of this deed and unless otherwise stated a reference to a clause or Schedule is to a clause of, or Schedule to, this deed. The Schedule forms part of this deed and shall have effect as if set out in full in the body of this deed;
- 1.2.2 a **person** includes 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);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders;
- 1.2.4 a **reference to a party shall include that party's successors, permitted assigns and permitted transferees** and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective successors, permitted assigns and permitted transferees;
- 1.2.5 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.6 a reference to **writing** or **written** includes fax and email;
- 1.2.7 an **obligation** on a party not to do something includes an **obligation** not to allow that thing to be done;
- 1.2.8 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;
- 1.2.9 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;
- 1.2.10 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.11 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration or resolution;
- 1.2.12 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived].
- 1.3 If MCG considers that an amount paid by Varfell in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of Varfell or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.
- 1.4 This deed is subject to the terms of the Deed of Priority and in the event of any conflict between the terms of this deed and the Deed of Priority, the terms of the Deed of Priority shall prevail.

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## 2 COVENANT TO PAY

- 2.1 Varfell shall, on demand, pay to MCG and discharge the Secured Liabilities when they become due.
- 2.2 In the event that any of the Secured Liabilities are not paid when due, interest at the rate of 5% above the Bank of England base rate shall be accrue on a daily basis on the overdue amount from the date when such payment was due until the date of actual payment and shall be payable by Varfell to MCG on demand.

## 3 GRANT OF SECURITY

- 3.1 As a continuing security for the payment and discharge of the Secured Liabilities, Varfell with full title guarantee charges to MCG by way of first legal mortgage, the Assets.
- 3.2 **Fixed charge:** As a continuing security for the payment and discharge of the Secured Liabilities, Varfell with full title guarantee charges to MCG by way of a first fixed charge:
  - 3.2.1 all its rights in respect of each Insurance Policy, including all claims and the proceeds of all claims relating to any loss or damage to any of the Assets, to the extent not effectively assigned under clause 3.3; and
  - 3.2.2 all its rights in respect of each Relevant Agreement, to the extent not effectively assigned under clause 3.3;
  - 3.2.3 all licences, consents and authorisations held by it to enable it to have access to and use of any of the Assets, and all rights in connection with them.
- 3.3 **Assignment:** As a continuing security for the payment and discharge of the Secured Liabilities, Varfell with full title guarantee assigns to MCG absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:
  - 3.3.1 all its rights in respect of each Insurance Policy, including all claims and the proceeds of all claims relating to any loss or damage to any of the Assets;
  - 3.3.2 the benefit of each Relevant Agreement; and
  - 3.3.3 all licences, consents and authorisations held by it to enable it to have access to and use of any of the Assets, and all rights in connection with them,provided that nothing in this clause 3.3 shall constitute MCG as mortgagee in possession.

## 4 LIABILITY OF VARFELL

- 4.1 **Liability not discharged:** Varfell's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:
  - 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, MCG that is or becomes wholly or partially illegal, void or unenforceable on any ground;
  - 4.1.2 MCG renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or



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4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of Varfell.

4.2 **Immediate recourse:** Varfell waives any right it may have to require MCG to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against Varfell.

## 5 REPRESENTATIONS AND WARRANTIES

5.1 Varfell makes the representations and warranties set out in this clause 5 to MCG.

5.2 Varfell is the sole legal and beneficial owner of the Secured Assets.

5.3 This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of Varfell, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

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

5.5 The Secured Assets are free from any Security other than Permitted Security and the Security created by this deed.

5.6 Varfell makes the representations and warranties set out in this clause 5 on to MCG the date of this deed and clauses 5.2 to clause 5.4 to are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

## 6 COVENANTS

6.1 **Negative pledge and disposal restrictions:** Varfell shall not at any time, except with the prior written consent of MCG:

6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security;

6.1.2 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 Secured Assets.

6.2 **Preservation of Secured Assets:** Varfell 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 MCG or materially diminish the value of any of the Secured Assets (except for expected fair wear and tear in the ordinary course of the business in which the Assets are used) or the effectiveness of the security created by this deed.

6.3 **Maintenance of Assets**

Varfell shall:

6.3.1 at its own expense, seek to maintain and preserve each of the Assets in accordance with good industry practice and, in respect of the Equipment, carry out such routine and periodical maintenance as is reasonably necessary to maintain the Equipment in a good and serviceable condition (except for expected fair wear and tear) ;

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6.3.2 at its own expense, renew and replace any parts of the Assets when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value;

6.3.3 maintain records of repairs, servicing, maintenance and treatments carried out on the Assets.

**6.4 Relevant Agreements**

6.4.1 Varfell shall, unless MCG agrees otherwise in writing, comply with the terms of each Relevant Agreement and any other document, agreement or arrangement comprising the Secured Assets.

6.4.2 Varfell shall not, unless MCG agrees otherwise in writing, amend or vary or agree to any changes in, or waive any requirement of or its rights under any Relevant Agreement which would or may be likely to affect or prejudice the ability of MCG or any Receiver to enforce its rights under this deed.

**6.5 Compliance with laws and regulations:** Varfell shall promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

**6.6 Enforcement of rights:** Varfell shall use its best endeavours to:

6.6.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with Varfell and forming part of the Secured Assets of the covenants and other obligations imposed on Varfell's counterparties (including each counterparty in respect of a Relevant Agreement and each insurer in respect of an Insurance Policy); and

6.6.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that MCG may require from time to time.

**6.7 Notice of breaches:** Varfell shall, promptly on becoming aware of any of the same, notify MCG in writing of any breach of warranty, representation covenant set out in this deed.

**6.8 Notices to be given by Borrower**

Varfell shall if so requested by MCG from time to time:

6.8.1 give notice to the relevant insurers of the assignment of the rights and interest in, and under, each Insurance Policy pursuant to clause 3.3.1; and

6.8.2 give notice to the other parties to each Relevant Agreement of the assignment of Varfell's rights and interest in and under that Relevant Agreement pursuant to clause 3.3.2.

**6.9 Notice of mortgage:** Varfell shall, if so requested by MCG, affix to and maintain on any individual asset with a value in excess of £5,000 in a conspicuous place, a clearly legible identification plate containing the following wording:

**"NOTICE OF LEGAL MORTGAGE:** This [DESCRIPTION OF ITEM] and all additions to it [and ancillary equipment] are subject to a legal mortgage dated [DATE] in favour of Maurice Crouch (Growers) Limited."

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6.10 **Documents:** Varfell shall, if so required by MCG, provide copies to MCG of all Relevant Agreements

6.11 **Information**

Varfell shall:

6.11.1 maintain adequate records of the location of the Stock and notify MCG of any re-location of any stock, and provide to MCG such other information concerning the location and condition of the Assets as MCG may require;

6.11.2 permit any persons designated by MCG and any Receiver to enter any land or premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and

6.11.3 promptly notify MCG in writing of any action, claim or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, Varfell's **proposals for settling, liquidating, compounding or contesting** any such action, claim, notice or demand and shall, subject to MCG's **prior approval, implement those proposals at its own expense.**

6.12 **Insurance**

6.12.1 Varfell shall insure, and keep insured, the Secured Assets against such other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as Varfell.

6.12.2 Any such insurance must be for not less than the replacement value of or, if higher, the cost of reinstating the relevant Secured Assets.

6.12.3 Varfell shall, if requested by MCG, produce to MCG each policy, certificate or cover note relating to the insurance required by clause 6.12.1; and

6.12.4 Varfell shall, if requested by MCG, procure that a note of MCG's **interest is endorsed on** each Insurance Policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 6.12.1.

6.12.5 Varfell shall not do or omit to do, or permit to be done or omitted, any thing that may invalidate or otherwise prejudice any Insurance Policy as is required by clause 6.12.1.

6.12.6 All monies payable under any Insurance Policy maintained by Varfell in accordance with clause 6.12.1 at any time (whether or not the security constituted by this deed has become enforceable) shall be applied in making good or recouping expenditure in respect of the loss or damage for which such monies are received or, after the security constituted by this deed has become enforceable and if MCG so directs, in or towards discharge or reduction of the Secured Liabilities.

6.13 **Annexation:** Varfell shall not, without MCG's **prior written consent, annex**, fix or otherwise secure or allow any such annexation, fixing or securing of any Asset to any premises, land or buildings if the result of such action or omission is that the Asset, or any part of it, would or might become a fixture or fitting.

6.14 **Environment:** Varfell shall, in respect of each Asset:

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6.14.1 comply in all material respects with all the requirements of Environmental Law; and

6.14.2 obtain and comply in all material respects with all Environmental Licences.

6.15 At any time after the security constituted by this deed has become enforceable Varfell shall not move any of the Stock from their then current location without the prior written consent of MCG.

## 7 POWERS OF MCG

7.1 **Power to remedy:** MCG shall be entitled (but shall not be obliged) to remedy, at any time, a breach by Varfell of any of its obligations contained in this deed and Varfell irrevocably authorises MCG and its agents to do all things that are necessary or desirable for that purpose. Any monies expended by MCG in remedying a breach by Varfell of its obligations contained in this deed, shall be reimbursed by Varfell to MCG on a full indemnity basis and shall carry interest in accordance with clause 14.1.

7.2 **Exercise of rights:** The rights of MCG under clause 7.1 are without prejudice to any other rights of MCG under this deed. The exercise of any rights of MCG under this deed shall not make MCG liable to account as a mortgagee in possession.

7.3 **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 MCG in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

### 7.4 New accounts

7.4.1 If MCG receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, MCG may open a new account for Varfell in MCG's books. **Without prejudice to MCG's right to combine accounts**, no money paid to the credit of Varfell in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

7.4.2 If MCG does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.4.1, then, unless MCG gives express written notice to the contrary to Varfell, all payments made by Varfell to MCG shall be treated as having been credited to a new account of Varfell and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by MCG.

7.5 **Indulgence:** MCG 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 such person is jointly liable with Varfell) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of Varfell for the Secured Liabilities.

## 8 WHEN SECURITY BECOMES ENFORCEABLE

8.1 The security constituted by this deed shall become immediately enforceable if any of the following events occurs.

8.1.1 Varfell fails to pay any sum payable by it under any the Asset Purchase Agreement or this deed when due, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date;

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- 8.1.2 Varfell commits any material breach of any of the provisions of this deed which if reasonably capable of remedy is not remedied within 14 days of the earlier of MCG notifying Varfell of the default and the remedy required and Varfell becoming aware of the breach;
- 8.1.3 Varfell or the Guarantor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business;
- 8.1.4 Varfell or the Guarantor stops or suspends payment of any of its debts or admits its inability to pay its debts as they fall due;
- 8.1.5 Varfell or the Guarantor commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding MCG) with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties);
- 8.1.6 A moratorium is declared in respect of any indebtedness of Varfell or the Guarantor;
- 8.1.7 Any action, proceedings, procedure or step is taken in relation to:
- (a) the suspension of payments, a moratorium in respect of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of Varfell or the Guarantor; or
  - (b) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of Varfell or the Guarantor or any of their respective assets;
- provided that any winding-up petition that is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised shall not constitute an Event to Default.
- 8.1.8 Any event occurs in relation to Varfell that is analogous to those set out in clauses 8.1.5 - 8.1.7 (inclusive) in any jurisdiction
- 8.1.9 A distress, attachment, execution, expropriation, sequestration or other analogous legal process is levied, enforced or sued out on, or against, the assets of Varfell or the Guarantor and is not discharged or stayed within 30 days.
- 8.1.10 All or any part of any this deed becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.
- 8.2 On and at any time after the occurrence of an Event of Default which is continuing, MCG may by notice to Varfell declare that the Secured Liabilities shall be immediately due and payable, whereupon they shall become immediately due and payable (or declare that all outstanding amounts owing be payable on demand, whereupon they shall immediately become payable on demand by MCG).
- 8.3 After the security constituted by this deed has become enforceable, MCG may, in its absolute discretion, exercise any or all of its rights, remedies, powers or discretions under this deed and 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 Secured Assets.

## **9 ENFORCEMENT OF SECURITY**

### **9.1 Enforcement powers**

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- 9.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- 9.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 8.1.
- 9.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

**9.2 Access on enforcement**

- 9.2.1 At any time after MCG has demanded payment of the Secured Liabilities or if Varfell defaults in the performance of its obligations under this deed, Varfell will allow MCG or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where MCG or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to Varfell for, or by any reason of, that entry.
- 9.2.2 At all times, Varfell must use its best endeavours to allow MCG or its Receiver access to any premises for the purpose of clause 9.2.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

**9.3 Prior Security**

- 9.3.1 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, MCG may:
  - (a) redeem any prior Security over any Secured Asset;
  - (b) procure the transfer of that Security to itself; and
  - (c) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on Varfell).
- 9.3.2 Varfell shall pay to MCG immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

**9.4 Protection of third parties:** No purchaser, mortgagee or other person dealing with MCG, any Receiver or Delegate shall be concerned to enquire:

- 9.4.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 9.4.2 whether any power MCG, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- 9.4.3 how any money paid to MCG, any Receiver or any Delegate is to be applied.

**9.5 Privileges:** Each Receiver and MCG is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

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**9.6 Exclusion of liability:** Neither MCG, nor any Receiver or any Delegate shall be liable to Varfell or any other person:

9.6.1 (by reason of entering into possession of a Secured Asset, or for any other reason) to account as mortgagee in possession in respect of all or any of the Secured Assets;

9.6.2 for any loss on realisation, or for any act, default or omission for which a mortgagee in possession might be liable; or

9.6.3 for any expense, loss or liability:

(a) relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed;

(b) relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed; or

(c) arising in any other way in connection with this deed,

except that this does not exempt MCG or any Receiver or Delegate from liability for losses caused by the gross negligence, fraud or wilful misconduct of MCG or the relevant Receiver or Delegate.

**9.7 Conclusive discharge to purchasers:** The receipt of MCG, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, MCG, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

**10 RECEIVER**

**10.1 Appointment:** At any time after the security constituted by this deed has become enforceable, or at the request of Varfell, MCG may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

**10.2 Removal:** MCG may, without further notice, (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), 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.

**10.3 Remuneration:** MCG 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.

**10.4 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 MCG 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.

**10.5 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 MCG despite any prior appointment in respect of all or any part of the Secured Assets.

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- 10.6 **Agent of Varfell:** Any Receiver appointed by MCG under this deed shall be the agent of Varfell and Varfell 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 Varfell goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of MCG.

**11 POWERS OF RECEIVER**

**11.1 General**

- 11.1.1 Any Receiver appointed by MCG under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 11.2 to clause 11.18.
- 11.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.
- 11.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- 11.1.4 Any exercise by a Receiver of any of the powers given by clause 11 may be on behalf of Varfell, the directors of Varfell or itself.
- 11.2 A Receiver may undertake or complete any works or repairs, alterations, additions, replacements or other acts for the protection or improvement of the Secured Assets as it thinks fit.
- 11.3 A Receiver may grant, or accept surrenders of, any leases, lettings or hire affecting any of the Assets on any terms and subject to any conditions that it thinks fit.
- 11.4 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 it thinks fit.
- 11.5 A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that MCG may prescribe or agree with it.
- 11.6 A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.
- 11.7 A Receiver may enter any premises where any Secured Assets are located and sever, dismantle and remove any Secured Assets from the premises without Varfell's **consent**.
- 11.8 A Receiver may do all such things as may be necessary for the ownership, management or operation of the Secured Assets.
- 11.9 A Receiver may grant options and licences over all or any part of the Assets, sell, exchange, convert into money, realise, assign, lease and accept surrenders of leases of all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any



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sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

- 11.10 A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.
- 11.11 A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of Varfell or relating in any way to any Secured Asset.
- 11.12 A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.
- 11.13 A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 14, 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 Varfell.
- 11.14 A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if MCG consents, terms under which that security ranks in priority to this deed).
- 11.15 A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on Varfell, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.
- 11.16 A Receiver may delegate its powers in accordance with this deed.
- 11.17 A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it 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 Secured Assets or any part of the Secured Assets.
- 11.18 A Receiver may do any other acts and things that it:
- 11.18.1 may consider desirable or necessary for realising any of the Secured Assets;
  - 11.18.2 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
  - 11.18.3 lawfully may or can do as agent for Varfell.

## 12 DELEGATION

- 12.1 **Delegation:** MCG 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 16.1).
- 12.2 **Terms:** MCG and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.
- 12.3 **Liability:** Neither MCG nor any Receiver shall be in any way liable or responsible to Varfell for any loss or liability of any nature arising from any act, default, omission or misconduct on the part of any Delegate.

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### 13 APPLICATION OF PROCEEDS

13.1 **Order of application of proceeds** All monies received or recovered by MCG, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of, the security constituted by this deed (other than sums received pursuant to 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 (but without prejudice to MCG's rights to recover any shortfall from Varfell):

13.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of MCG (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;

13.1.2 in or towards payment of the Secured Liabilities in any order and manner that MCG determines; and

13.1.3 in payment of the surplus (if any) to Varfell or other person entitled to it.

13.2 **Appropriation:** Neither MCG, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 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 any of the Secured Liabilities.

13.3 **Suspense account:** All monies received by MCG, a Receiver or a Delegate under this deed (other than sums received pursuant to any Insurance Policy, which are not going to be applied in or towards discharge of the Secured Liabilities):

13.3.1 may, at the discretion of MCG, Receiver or Delegate, be credited to any suspense account;

13.3.2 shall bear interest, if any, at the rate agreed in writing between MCG and Varfell; and

13.3.3 may be held in that account for so long as MCG, Receiver or Delegate thinks fit.

### 14 COSTS AND INDEMNITY

14.1 **Costs:** Varfell shall, promptly following demand, pay to, or reimburse, MCG 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) incurred by MCG, any Receiver or any Delegate in connection with:

14.1.1 protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) any of MCG's, a Receiver's or a Delegate's rights under this deed; or

14.1.2 taking proceedings for, or recovering, any of the Secured 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, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding up or administration of Varfell) at the rate and in the manner specified in the Asset Purchase Agreement.

14.2 **Indemnity:** Varfell shall indemnify MCG, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but

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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 or incurred by any of them arising out of or in connection with:

14.2.1 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 Secured Assets;

14.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or

14.2.3 any default or delay by Varfell in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 14.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## 15 FURTHER ASSURANCE

Varfell shall promptly, at its own expense, take whatever action MCG or any Receiver may reasonably require for:

15.1.1 creating, perfecting or protecting the security intended to be created by this deed;

15.1.2 facilitating the realisation of any Secured Asset; or

15.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by MCG or any Receiver in respect of any Secured Asset,

including, without limitation 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 Secured Assets (whether to MCG or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## 16 POWER OF ATTORNEY

16.1 **Appointment of attorneys:** By way of security, Varfell irrevocably appoints MCG, every Receiver and every Delegate separately to be the attorney of Varfell and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

16.1.1 Varfell is required to execute and do under this deed; or

16.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on MCG, any Receiver or any Delegate.

16.2 **Ratification of acts of attorneys:** Varfell 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 clause 16.1.

## 17 RELEASE

Subject to clause 24.3, at the end of the Security Period, MCG shall, at the request and cost of Varfell, take whatever action is necessary to release the Secured Assets from the security constituted by this deed and reassign the Secured Assets to Varfell.

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## 18 ASSIGNMENT AND TRANSFER

- 18.1 **Assignment by Lender:** At any time, without the consent of Varfell, MCG may assign any of its rights or transfer any of its rights and obligations under this deed. MCG may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Secured Assets and this deed that MCG considers necessary in the circumstances.
- 18.2 **Assignment by Borrower:** Varfell may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

## 19 SET-OFF

- 19.1 **Lender's right of set-off:** MCG may at any time set off any liability of Varfell due to MCG under this deed against any actual liability of MCG due to Varfell, whether or not that liability arises under this deed. Any exercise by MCG of its rights under this clause 19 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.
- 19.2 **Borrower's right of set-off:** Varfell may at any time set off any liability of MCG due to Varfell under the Asst Purchase Agreement against any actual liability of Varfell due to MCG under this deed. Subject thereto, all payments made by Varfell to MCG under this deed shall be made in full without any set-off counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 20 AMENDMENTS, WAIVERS AND CONSENTS

- 20.1 **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).
- 20.2 **Waivers and consents**
- 20.2.1 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 subsequent right or remedy. It only applies to the circumstances in relation to which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 20.2.2 A failure by MCG to exercise, or delay by it 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 MCG shall be effective unless it is in writing.
- 20.3 **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.

## 21 PARTIAL INVALIDITY

If, at any time, any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

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## 22 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.

## 23 THIRD PARTY RIGHTS

### 23.1 Third party rights

23.1.1 Except as expressly provided in clause 14.2 or elsewhere in this deed, a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

23.1.2 Notwithstanding any term of this deed, the consent of any person who is not a party to this deed is not required to rescind or vary this deed at any time.

## 24 FURTHER PROVISIONS

24.1 **Independent security:** The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that MCG may hold for any of the Secured Liabilities at any time. No prior security held by MCG over the whole or any part of the Secured Assets shall merge in the security created by this deed.

24.2 **Continuing security:** The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until MCG discharges this deed in writing.

24.3 **Discharge conditional:** Any release, discharge or settlement between Varfell and MCG shall be conditional on no payment or security received by MCG in respect of the Secured Liabilities being avoided, reduced, set aside or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or for any other reason. Despite any such release, discharge or settlement.

24.4 **Certificates:** Any certification or determination by MCG of any rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

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

## 25 NOTICES

25.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

25.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

25.1.2 sent by email to the following addresses (or an address substituted in writing by the party to be served):

(c) Varfell: alex.newey@greosn.com

(d) MCG: mfairey@mauricecrouch.co.uk

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25.2 Any notice shall be deemed to have been received:

25.2.1 if delivered by hand, at the time the notice is left at the proper address; or

25.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

25.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours (being 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday) in the place of receipt, when business hours resume.

25.3 This clause 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 GOVERNING LAW AND JURISDICTION

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

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

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**SCHEDULE 1****Assets****Part 1: The Equipment**

The following assets acquired by Varfell from MCG (including any component parts of and accessories to those assets) pursuant to the Asset Purchase Agreement:

<u>Item</u>	<u>Approximate year of acquisition by MCG</u>
Standen/Herbert Air Harvester	1997
Grimme DL1700 Harvester	1996
Grimme DL1700 Harvester	1996
Drying Boxes x500 approx	1990's approx
Herbert box fillers mics x3	1990's approx
Sterilising boxes x1000 approx	1990's approx
Lango Bulb Grader incl misc belts etc	1987
Herbert Dry Bulb Line incl twin line brushers	1987
Modified Reekie 350 bulb lifter	1990 approx
Modified Reekie 350 bulb lifter	1990 approx
Briggs Tied Ridger	2006
Pearson modified Destoner	approx 2000
Bulb Planter 2 row	2007
Secker Hot Water Treatment Tanks x3 separate units	2010
Jones 4 row bulb lifter x2	2010
Jones 4 row bulb planter	2014
Jones 4 row bulb topper	2016
25,000 plastic nesting flower trays	approx 2015
Tong Bulb Fan cleaner	2018
Tong Bulb Fan cleaner	2019
Cousins Bulb Ridger	1990's approx
Various external Drying Walls	1990's approx
Tractor Mounted Flower Carriers x10	2000 onwards
Miscellaneous spare parts	

**Part 2: Stock**

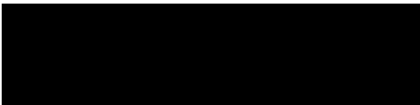
All the stock of daffodil bulbs planted in the Fields at the date of this Deed acquired by Varfell from MCG pursuant to Asset Purchase Agreement and any further bulbs derived therefrom, together with any replacement or additional daffodil bulbs planted with any such bulbs in the Fields

**Part 3: The Fields**

Those fields which MCG had rights to use for daffodil growing prior to the date of this Deed, comprising the fields of the Seller known as Kenwyn Field (2.3 acres) and Wood Field (5.83 acres) and those fields used by MCG but owned by third parties (and being those Fields as defined in the Asset Purchase Agreement).

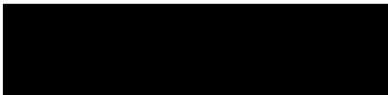
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Executed as deed by **VARFELL FARMS LIMITED** )  
acting by a director in the presence of: )



Director

Witness  
Signature:



Name: **Trish Cox** .....

Address: .....  
.....  
.....



Occupation: **Finance Director** .....

Executed as deed by **MAURICE CROUCH** )  
**(GROWERS) LIMITED** acting by a director )  
in the presence of: )

.....  
Director

Witness  
Signature: .....

Name: .....

Address: .....  
.....  
.....

Occupation: .....



Executed as deed by **VARFELL FARMS LIMITED** )  
acting by a director in the presence of: )

.....  
Director

Witness

Signature: .....

Name: .....

Address: .....

Occupation: .....

Executed as deed by **MAURICE CROUCH** )  
**(GROWERS) LIMITED** acting by a director )  
in the presence of: )

.....  
Director

Witness

Signature: .....

Name: James Waukers .....

Address: .....

Occupation: Farm Manager .....