



Registration of a Charge

Company name: **MONTANA BAKERY LIMITED**

Company number: **03298641**



X634HWF5

Received for Electronic Filing: **27/03/2017**

Details of Charge

Date of creation: **07/03/2017**

Charge code: **0329 8641 0008**

Persons entitled: **KBC COMMERCIAL FINANCE NV**

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: **DMH STALLARD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3298641

Charge code: 0329 8641 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th March 2017 and created by MONTANA BAKERY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th March 2017 .

Given at Companies House, Cardiff on 28th March 2017

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: 7th March 2017

KBC COMMERCIAL FINANCE NV

and

MONTANA BAKERY LIMITED

CHARGE OVER BOOK DEBTS AND PROCEEDS OF BOOK DEBTS



DMH Stallard
www.dmhstallard.com

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THIS DEED is made the 7th day of March 2017

BETWEEN

- (1) **MONTANA BAKERY Limited** incorporated and registered in England and Wales with company number **03298641** whose registered office is at Blackthorne Road Colnbrook, SL3 0AP Slough, Berkshire, United Kingdom, ("**MONTANA BAKERY**").
- (2) **KBC Commercial Finance NV** incorporated and registered in Belgium whose office is at Havenlaan 6, BE-1080, Brussels, Belgium ("**KBC**").

BACKGROUND

- (A) KBC has agreed pursuant to the Invoice Discounting Agreement to provide MONTANA BAKERY with invoice discounting facilities.
- (B) This Deed provides security which MONTANA BAKERY has agreed to give to KBC for the invoice discounting facilities under the Invoice Discounting Agreement.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The definitions and rules of interpretation in this clause apply in this Deed.

Book Debts: means in relation to MONTANA BAKERY, all its book debts which:

- (a) are in existence during the period commencing on Commencement (as defined in the Invoice Discounting Agreement) and ending on the date on which the Invoice Discounting Agreement terminates in accordance with its terms; and
- (b) are the subject of the Invoice Discounting Agreement; and
- (c) have failed to vest legally and beneficially in KBC pursuant to the terms of the Invoice Discounting Agreement.

Business Day: a day (other than a Saturday or Sunday) on which commercial banks are open for general business and deposits are dealt with.

Company's Account: all amounts now or hereafter owing or becoming due to the Company by KBC on any account including any amount retained by KBC under any provision of the Agreement and the proceeds of such amounts.

Costs: all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on Costs.

Debtor Account: has the meaning given to that expression in the Invoice Discounting Agreement.

Financial Collateral: has the meaning given to that expression in the Financial Collateral Regulations.

Financial Collateral Regulations: the Financial Collateral Arrangements (No. 2) Regulations 2003 (*SI 2003/3226*).

Invoice Discounting Agreement: the agreement dated on or around the date of this Deed incorporating the Special Terms and Conditions and the General Terms and Conditions of KBC Commercial Finance (for English companies) version date 17th of November 2015 as amended from time to time between MONTANA BAKERY and KBC for the provision of the invoice discounting facilities secured by this Deed.

Other Debts: all amounts of indebtedness (other than the Book Debts; and the Company's Account) now or at any time hereafter owing or becoming due to the Company on any account whatsoever and their proceeds together with the Related Rights (as defined in the Invoice Discounting Agreement) pertaining to such amounts of indebtedness and their proceeds;

Proceeds: the realisation and proceeds of the Book Debts and any other sums or monies in relation to the Book Debts.

Receiver: a receiver appointed under this Deed.

Secured Liabilities: all present and future monies, obligations and liabilities owed by MONTANA BAKERY to KBC, whether actual or contingent, as principal or surety and/or in any other capacity, under or in connection with the Invoice Discounting Agreement or this Deed (together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities.

Security Assets: means in relation to MONTANA BAKERY, all of its assets and rights which are the subject of any security created by this Deed.

Security Financial Collateral Arrangement: has the meaning given to that expression in the Financial Collateral Regulations.

Security Interest: 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 KBC is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

1.2 Interpretation

Unless the context otherwise requires, in this Deed:

- 1.2.1 a reference to a statute or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision which it consolidated or re-enacted before the date of this Deed;
- 1.2.2 a reference to one gender includes a reference to the other genders;
- 1.2.3 words in the singular include the plural and in the plural include the singular;
- 1.2.4 a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed and references to paragraphs are to paragraphs of the relevant Schedule;

- 1.2.5 a reference to **this Deed** (or any specified provision of it) or any other document shall be construed as a reference to this Deed, that provision or that document as in force for the time being and as amended or novated from time to time;
- 1.2.6 a reference to a **person** shall include a reference to an individual, firm, body corporate, corporation, unincorporated body of persons, or any state or any agency of a person;
- 1.2.7 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.8 a reference to an **authorisation** includes an authorisation, consent, licence, approval, resolution, exemption, filing, registration and notarisation;
- 1.2.9 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;
- 1.2.10 a reference to MONTANA BAKERY or KBC shall include its successors, permitted transferees and permitted assigns; and
- 1.2.11 clause, schedule and paragraph headings shall not affect the interpretation of this Deed.
- 1.3 **Clawback**
If KBC considers that an amount paid in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of MONTANA BAKERY or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.4 **Third party rights**
A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this Deed.
- 1.5 **Perpetuity period**
If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).
- 1.6 **Schedules**
The schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules.
- 2. COVENANT TO PAY**
MONTANA BAKERY shall, on demand, pay to KBC and discharge the Secured Liabilities when they become due.
- 3. GRANT OF SECURITY**
As a continuing security for the payment and discharge of the Secured Liabilities, MONTANA BAKERY with full title guarantee charges to KBC, by way of first fixed charge:
- (a) all the Book Debts, Other Debts and the Company's Account;

(b) all benefits, claims, rights and security held in respect of or to secure the payment of the Book Debts; and

(c) all the Proceeds.

4. LIABILITY OF MONTANA BAKERY

4.1 Liability not discharged

MONTANA BAKERY'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 KBC that is or becomes wholly or partially illegal, void or unenforceable on any ground; or

4.1.2 any termination, amendment, variation or supplement of or to the Invoice Discounting Agreement;

4.1.3 KBC 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

4.1.4 any other act or omission, which but for this clause 4 might have discharged, or otherwise prejudiced or affected, the liability of MONTANA BAKERY.

4.2 Immediate recourse

MONTANA BAKERY waives any right it may have to require KBC to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against MONTANA BAKERY.

5. REPRESENTATIONS AND WARRANTIES

MONTANA BAKERY represents and warrants to KBC in the terms set out in Schedule 1. The representations and warranties set out in Schedule 1 are made on the date of this Deed and shall be deemed to be repeated on each anniversary date of this Deed with reference to the facts and circumstances then existing.

6. COVENANTS

MONTANA BAKERY covenants with KBC in the terms set out in Schedule 2.

7. POWERS OF KBC

KBC shall have the powers set out in Schedule 3.

8. ENFORCEMENT

8.1 Enforcement

The security constituted by this Deed shall be immediately enforceable in any of the circumstances set out in paragraph 1 of Schedule 4. The parties to this Deed agree that the provisions of Schedule 4 shall apply to this Deed and shall be binding between them.

8.2 Power of sale

At any time after this Deed has become enforceable, KBC and any Receiver may (without prejudice to any other right which KBC or the Receiver may have) without further notice to MONTANA BAKERY exercise the power to sell or otherwise dispose of the whole or any part of the Secured Assets.

8.3 Terms of sale

Any sale or disposal under clause 8.2 may be made in such manner, on such terms and for such consideration (whether payable immediately or by instalments) as KBC or the Receiver, as the case may be, shall in its absolute discretion think fit and without liability for loss.

8.4 Right of appropriation

8.4.1 To the extent that the Proceeds from time to time standing to the credit of the Debtor Account constitute Financial Collateral and this Deed and the obligations of MONTANA BAKERY hereunder constitute a Security Financial Collateral Arrangement, KBC shall have the right, at any time after this Deed has become enforceable and subject to the terms of this Deed, to appropriate all or any of that part of such amounts in or towards the payment and/or discharge of the Secured Liabilities in such order as KBC in its absolute discretion may from time to time determine. The value of the Proceeds from time to time standing to the credit of the Debtor Account appropriated in accordance with this clause shall be, in the case of cash, the amount of cash appropriated. MONTANA BAKERY agrees that the method of valuation provided for in this clause is commercially reasonable for the purposes of the Financial Collateral Regulations.

8.4.2 The rights of KBC that are set out in clause 8.4.1 shall be separate and distinct rights from KBC's general rights of set off under this Deed and the Invoice Discounting Agreement.

9. COSTS AND INDEMNITY

9.1 Costs

MONTANA BAKERY shall pay to, or reimburse, KBC and any Receiver on demand, on a full indemnity basis, all Costs incurred by KBC and/or any Receiver in relation to:

9.1.1 protecting, perfecting, preserving or enforcing (or attempting to do so) any of KBC's or the Receiver's rights under this Deed;

9.1.2 suing for, or recovering, any of the Secured Liabilities, (including, without limitation, the Costs of any proceedings in relation to this Deed or the Secured Liabilities), together with interest on any amount due under this clause.

9.2 Indemnity

KBC and any Receiver, and their respective employees and agents, shall be indemnified on a full indemnity by MONTANA BAKERY in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

9.2.1 the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this Deed;

9.2.2 any matter or thing done, or omitted to be done, in relation to the Security Assets under those powers; and

9.2.3 any default or delay by MONTANA BAKERY in performing any of its obligations under this Deed.

9.3 Any monetary obligations due for payment under this clause 9 pursuant to the indemnities given to KBC and any Receiver shall be satisfied by MONTANA BAKERY in the manner set out in condition 4.2 (a) and 4.2 (c) of the Invoice Discounting Agreement.

10. RELEASE

Subject to clause 12.3, on the expiry of the Security Period (but not otherwise), KBC shall, at the request and cost of MONTANA BAKERY, take whatever action is necessary to release the Security Assets from the security constituted by this Deed.

11. ASSIGNMENT AND TRANSFER

11.1 Assignment by KBC

KBC may assign or transfer the whole or any part of KBC's rights and/or obligations under this Deed to any person at the same time that it assigns or transfers its rights under the Invoice Discounting Agreement in accordance with the terms thereof.

11.2 Assignment by MONTANA BAKERY

MONTANA BAKERY may not assign any of its rights, or transfer any of its obligations, under this Deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

12. FURTHER PROVISIONS

12.1 Independent security

This Deed shall be in addition to, and independent of, every other security or guarantee which KBC may hold for any of the Secured Liabilities at any time. No prior security held by KBC over the whole or any part of the Security Assets shall merge in the security created by this Deed.

12.2 Continuing security

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 KBC discharges this Deed in writing.

12.3 Discharge conditional

Any release, discharge or settlement between MONTANA BAKERY and KBC shall be deemed conditional on no payment or security received by KBC in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

12.3.1 KBC or its nominee may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Security Assets, for such period as KBC deems necessary to provide KBC with security against any such avoidance, reduction or order for refund; and

12.3.2 KBC may retain the value or amount of such security or payment from MONTANA BAKERY subsequently as if such release, discharge or settlement had not occurred.

12.4 Certificates

A certificate or determination by KBC as to any amount for the time being due to it from MONTANA BAKERY shall (in the absence of any manifest error) be conclusive evidence of the amount due.

12.5 Rights cumulative

The rights and powers of KBC conferred by this Deed are cumulative, may be exercised as often as KBC considers appropriate, and are in addition to its rights and powers under the general law.

12.6 Waivers

Any waiver or variation of any right by KBC (whether arising under this Deed or under the general law) shall only be effective if it is in writing and signed by KBC and applies only in the circumstances for which it was given, and shall not prevent KBC from subsequently relying on the relevant provision.

12.7 Further exercise of rights

No act or course of conduct or negotiation by or on behalf of KBC shall, in any way, preclude KBC from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.

12.8 Delay

No delay or failure to exercise any right or power under this Deed shall operate as a waiver.

12.9 Single or partial exercise

No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.

12.10 Consolidation

The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this Deed.

12.11 Partial invalidity

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

12.12 Counterparts

This Deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

13. NOTICES

13.1 Service

Each notice or other communication required to be given under, or in connection with, this Deed shall be:

13.1.1 In writing, delivered personally or sent by pre-paid first-class letter or fax; and

13.1.2 sent:

- (a) to MONTANA BAKERY Limited at:
Blackthorne Road,
Colnbrook,
SL3 0AP Slough, Berkshire,

United Kingdom,
Fax: 01753 760 805
Attention: Miss. Shylini Shetty
Shylini@montana.bakeries.co.uk

- (b) to KBC at:
Havenlaan 6,
BE-1080
Brussels
Belgium
Fax: 00 32 26460689
Attention: Miss. Sylvie Goeminne
Sylvie.Goeminne@kbccomfin.be

or to such other address or fax number as is notified in writing by one party to the other from time to time.

13.2 Receipt by MONTANA BAKERY

Any notice or other communication that KBC gives shall be deemed to have been received:

13.2.1 If sent by fax, when received in legible form;

13.2.2 if given by hand, at the time of actual delivery; and

13.2.3 if posted, on the fifth Business Day after the day it was sent by pre-paid first-class post.
A notice or other communication given as described in clause 13.2.1 or clause 13.2.2 on a day which 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.

13.3 Receipt by KBC

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

14. GOVERNING LAW AND JURISDICTION

14.1 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.

14.2 Jurisdiction

The parties to this Deed irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises 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 KBC to take proceedings against MONTANA BAKERY 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.

14.3 Other service

MONTANA BAKERY irrevocably consents to any process in any proceedings 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 document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1

Representations and warranties

1. **Ownership of Security Assets**
MONTANA BAKERY is the legal and beneficial owner of the Security Assets.
2. **No Security Interests**
The Security Assets are free from any Security Interest other than the Security Interests created by this Deed.
3. **Adverse claims**
MONTANA BAKERY has not received or acknowledged notice of any adverse claim by any person in respect of the Security Assets or any interest in it.
4. **Adverse covenants**
There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which materially adversely affect the Security Assets.
5. **No breach of laws**
There is no breach of any law or regulation which materially adversely affects the Security Assets.
6. **Avoidance of security**
No Security Interest expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of MONTANA BAKERY or otherwise.
7. **No prohibitions or breaches**
The entry into of this Deed by MONTANA BAKERY does not and will not constitute a breach of any agreement or instrument binding on MONTANA BAKERY or its assets.

SCHEDULE 2

Covenants

Part 1

General covenants

1. Negative pledge and disposal restrictions
 - 1.1 MONTANA BAKERY shall not at any time, except with the prior written consent of KBC:
 - 1.1.1 create, purport to create or permit to subsist any Security Interest on, or in relation to, any Security Assets other than any Security Interest created by this Deed;
 - 1.1.2 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 Security Assets; or
 - 1.1.3 create or grant (or purport to create or grant) any interest in the Security Assets in favour of a third party.
2. **Preservation of Charged Property**

MONTANA BAKERY 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 KBC, or materially diminish the value of any of the Security Assets or the effectiveness of the security created by this Deed.
3. **Enforcement of rights**
 - 3.1 MONTANA BAKERY shall use its best endeavours to:
 - 3.1.1 procure the prompt observance and performance of the covenants and other obligations imposed on the MONTANA BAKERY's counterparties; and
 - 3.1.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Security Assets which KBC may require from time to time.
4. **Notice of breaches**
 - 4.1 MONTANA BAKERY shall, promptly on becoming aware of any of the same, give KBC notice in writing of :
 - 4.1.1 any representation or warranty set out in Schedule 1 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
 - 4.1.2 any breach of any covenant set out in this Schedule 2.
5. **Title documents**
 - 5.1 MONTANA BAKERY shall, on the execution of this Deed deposit with KBC and KBC shall, for the duration of this Deed be entitled to hold all deeds and documents of title (if any) relating to the Book Debts as KBC may specify from time to time.
6. **Further assurance**

- 6.1 MONTANA BAKERY shall, at its own cost:
- 6.1.1 prepare and execute, in favour of KBC and in such form as KBC may reasonably require, such further mortgages, charges or transfers of or over all or any part of the Security Assets as KBC may, in its absolute discretion, require from time to time provided that such further mortgages, charges or transfers shall be on no more onerous terms than those set out in this Deed; and
- 6.1.2 give all notices, orders and directions which KBC may require, in its absolute discretion, for perfecting, protecting or facilitating the realisation of its security over the Security Assets.
7. **MONTANA BAKERY's waiver of set-off**
- MONTANA BAKERY waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by MONTANA BAKERY under this Deed).

Part 2

Book Debts covenants

8. **Preservation of Book Debts**
- MONTANA BAKERY shall not (except as provided by paragraph 9 of Part 2 of Schedule 2 or with the prior written consent of KBC) release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.
9. **Realising Book Debts**
- 9.1 MONTANA BAKERY shall:
- 9.1.1 unless instructed not to do so by KBC, act as an agent for KBC, collect in and realise all Book Debts, pay the proceeds into the Debtor Account immediately on receipt and, pending that payment, hold those proceeds in trust for KBC;
- 9.1.2 if called on to do so by KBC, execute a legal assignment of the Book Debts to the KBC on such terms as KBC may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

SCHEDULE 3

Powers of KBC

1. **Power to remedy**
KBC shall be entitled (but shall not be obliged) to remedy a breach at any time by MONTANA BAKERY of any of its obligations contained in this Deed and MONTANA BAKERY irrevocably authorises KBC and its agents to do all such things as are necessary or desirable for that purpose.
2. **Exercise of rights**
The rights of KBC under paragraph 1 of this Schedule 3 are without prejudice to any other rights of KBC under this Deed. The exercise of those rights shall not make KBC liable to account as a mortgagee in possession.
3. **Prior Security Interests**
 - 3.1 At any time after the security constituted by this Deed has become enforceable, or after any powers conferred by any Security Interest having priority to this Deed shall have become exercisable, KBC may:
 - 3.1.1 redeem such or any other prior Security Interest or procure its transfer to itself; and
 - 3.1.2 settle and pass any account of the holder of any prior Security Interest.
4. **Conversion of currency**
For the purpose of, or pending the discharge of, any of the Secured Liabilities, KBC may convert any monies received, retained or realised by KBC under this Deed (including the proceeds of any previous conversion under this paragraph 4) from their existing currencies of denomination into such other currencies of denomination as KBC may think fit. Any such conversion shall be effected at KBC's then prevailing spot selling rate of exchange for such other currency against the existing currency. Each reference in this paragraph 4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.
5. **New accounts**
 - 5.1 If KBC receives, or is deemed to have received, notice of any subsequent Security Interest, or other interest, affecting all or part of the Security Assets, KBC may open a new account for MONTANA BAKERY in KBC's books. Without prejudice to KBC's right to combine accounts, no money paid to the credit of MONTANA BAKERY in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
 - 5.2 If KBC does not open a new account immediately on receipt of the notice or deemed notice referred to in paragraph 5.1 of this Schedule 3, then, unless KBC gives express written notice to the contrary to MONTANA BAKERY, all payments made by MONTANA BAKERY to KBC shall be treated as having been credited to a new account of MONTANA BAKERY and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by KBC.
6. **KBC's set-off rights**
If KBC has more than one account for MONTANA BAKERY in its books, KBC may at any time after the occurrence of an enforcement event under paragraph 1 of Schedule 4,

transfer all or any part of the balance standing to the credit of any account to any other account which may be in debit (but KBC shall notify MONTANA BAKERY of the transfer once made).

7. Indulgence

KBC may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person that is not a party to this Deed (whether or not such person is jointly liable with MONTANA BAKERY) 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 MONTANA BAKERY for the Secured Liabilities.

8. Power of Attorney

The Company hereby irrevocably appoints the KBC and the directors and the secretary for the time being of the KBC and any Receiver appointed by virtue of an appointment in accordance with Schedule 4 jointly and each of them severally to be the attorney of the Company to execute in the name of the Company such deeds and documents and to do such other things as may be requisite to perfect to KBC title to any of the Security Assets or to enable KBC to exercise any of its rights under this charge including its rights to enforce payment of, collect or realise any of the Security Assets and for the purpose of receiving all monies payable under any policy of insurance held by the Company and for compromising or compounding any claim under it.

SCHEDULE 4

Enforcement

1. Enforcement events

This Deed shall be enforceable if:

- 1.1 Any of the Secured Liabilities are not paid or discharged when the same ought to be paid or discharged by MONTANA BAKERY on demand in accordance with clause 2 of this Deed.
- 1.2 Any event set out in condition 13.3 of the Invoice Discounting Agreement occurs.

2. Power of sale

The power of sale under this Deed (including any statutory power of sale) shall, as between KBC and a purchaser from KBC, arise on and be exercisable at any time after the execution of this Deed, but KBC shall not exercise such power of sale until the security constituted by this Deed has become enforceable under paragraph 1 of this Schedule 4.

3. Protection of third parties

- 3.1 No purchaser, mortgagee or other person dealing with KBC or any Receiver shall be concerned:
 - 3.1.1 to enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power KBC or a Receiver is purporting to exercise has become exercisable; or
 - 3.1.2 to see to the application of any money paid to KBC or any Receiver.

4. No liability as mortgagee in possession

Neither KBC nor any Receiver shall be liable to account as mortgagee in possession in respect of the Security Assets, 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, the Security Assets for which a mortgagee in possession might be liable as such.

5. Appointment of Receiver

- 5.1 At any time after the security constituted by this Deed has become enforceable, or at the request of MONTANA BAKERY, KBC may, without further notice:
 - 5.1.1 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 Security Assets; and
 - 5.1.2 from time to time, by way of deed, or otherwise in writing, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place. Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by KBC specifies to the contrary).
- 5.2 KBC may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the

Receiver shall be a debt secured by this Deed which shall be due and payable immediately upon its being paid by KBC.

6. Power of sale additional

6.1 The powers of sale and appointing a Receiver conferred by this Deed shall be in addition to all statutory and other powers of KBC under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise, and shall be exercisable without the restrictions contained in Sections 103 and 109 of the Law of Property Act 1925 or otherwise.

6.2 The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by KBC despite any prior appointment in respect of all or any part of the Security Assets.

7. Agent of MONTANA BAKERY

Any Receiver appointed by KBC under this Deed shall be the agent of MONTANA BAKERY and MONTANA BAKERY shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.

8. Powers of Receiver

Any Receiver appointed by KBC under this Deed shall, in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986, have the power to do all such acts and things as an absolute owner could do in the management of the Security Assets.

9. Order of application of proceeds

9.1 All monies received by KBC or a Receiver in the exercise of any enforcement powers conferred by this Deed shall be applied:

- (i) first in paying all unpaid fees, costs and other liability incurred by or on behalf of KBC (and any Receiver, attorney or agent appointed by it);
- (ii) second in paying the remuneration of any Receiver (as agreed between the Receiver and KBC);
- (iii) third in or towards discharge of the Secured Liabilities in such order and manner as KBC determines; and
- (iv) finally in paying any surplus to MONTANA BAKERY or any other person entitled to it.

10. Appropriation

Neither KBC nor any Receiver 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 any of the Secured Liabilities.

11. Suspense account

All monies received by KBC or a Receiver under this Deed may, at the discretion of KBC or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between KBC and MONTANA BAKERY, and may be held in such account for so long as KBC or Receiver thinks fit.

12. Power of attorney
- 12.1 By way of security, MONTANA BAKERY irrevocably appoints KBC and every Receiver separately to be the attorney of MONTANA BAKERY and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:
- 12.1.1 MONTANA BAKERY is required to execute and do under this Deed, including execute any document required by KBC and/or:
- 12.1.2 any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this Deed or by law on KBC or any Receiver.
13. Ratification of acts of attorney
- MONTANA BAKERY ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in paragraph 12 of this Schedule 4.

Executed as a deed by
MONTANA BAKERY LIMITED
acting by a director,
in the presence of:

Director

Executed as a deed by
KBC COMMERCIAL FINANCE NV
acting by one authorised signatory