

MR01

Particulars of a charge

097518 / 13V



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WEDNESDAY

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where the charge
instrument is not a document



LD3 *L3136MXT* #53
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record.

1 Company details

Company number 03548572
Company name in full OPENFIELD AGRICULTURE LIMITED

16 For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 04/02/2014

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name GRAINFARMERS PENSION TRUSTEES LIMITED

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

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4

Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

N/A

5

Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ **Yes**

☐ **No**

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ **Yes** Continue

☒ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ **Yes**

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ **Yes**

☐ **No**

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8

Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X CMS Cameron McKenna LLP X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name JAVA/AXKE/126732 00001

Company name CMS Cameron McKenna LLP

Address Mitre House

160 Aldersgate Street

London

Post town

County/Region

Postcode E C 1 A 4 D D

Country

DX DX 135316 BARBICAN 2

Telephone 020 7367 3000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3548572

Charge code: 0354 8572 0016

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th February 2014 and created by OPENFIELD AGRICULTURE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th February 2014.

Given at Companies House, Cardiff on 7th February 2014



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated 4 February 2014

- (1) OPENFIELD AGRICULTURE LIMITED
- (2) GRAINFARMERS PENSION TRUSTEES LIMITED

DEED OF CHARGE

This deed is subject to the Deed of Priority

CMS Cameron McKenna LLP

Mitre House

160 Aldersgate Street

London EC1A 4DD

T +44(0)20 7367 3000

F +44(0)20 7367 2000

CERTIFIED TO BE A CONFORMED
COPY OF THE ORIGINAL
CMS Cameron McKenna LLP
DATE *4/2/2014*

CMS Cameron McKenna LLP
Mitre House, 160 Aldersgate Street
London EC1A 4DD

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THIS DEED is made on the 4th day of February 2014

BETWEEN

- (1) **OPENFIELD AGRICULTURE LIMITED**, registered in England and Wales with company number 03548572, whose registered office is situate at Honey Pot Lane, Colsterworth, Grantham, Lincolnshire, NG33 5LY (the "**Chargor**"), and
- (2) **GRAINFARMERS PENSION TRUSTEES LIMITED**, registered in England and Wales with company number 8500771, whose registered office is also situate at Honey Pot Lane, Colsterworth, Grantham, Lincolnshire, NG33 5LY as trustee for the Scheme (as defined below) (the "**Trustee**")

WHEREAS

- (A) By a trust deed dated 13 October 2011 and made between Openfield Group Limited and the trustees named therein (as the same may have subsequently been amended (the "**Trust Deed**")) there was constituted the Grainfarmers Group Pension and Life Assurance Scheme (the "**Scheme**"),
- (B) The Chargor enters into this Deed in connection with the liabilities of Openfield Group Limited under the Scheme and in order to secure the obligations of Openfield Group Limited to make payments to the Trustee in respect of the Scheme
- (C) The Board of Directors of the Chargor is satisfied that the giving of the guarantee and security contained or provided for in this Deed is in the interests of the Chargor and has passed a resolution to that effect

NOW IT IS AGREED as follows

1 Definitions and Interpretation

Definitions

- 1.1 Terms defined in this Deed shall, unless otherwise defined in this Deed, have the same meanings set out below

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption filing, notansation or registration

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London

"**Charged Property**" means all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Trustee by or pursuant to this Deed

"**Company**" means Openfield Group Limited registered in England and Wales with the Financial Services Authority Mutuals Public Register with number 4475R whose registered office is situate at Honey Pot Lane, Colsterworth, Grantham, Lincolnshire, NG33 5LY

"**Deed of Priority**" means the deed of priority entered into by amongst others the Trustee, the Chargor, the Company and Lloyds Bank plc dated on or about the date of this Deed

"Delegate" means any person appointed by the Trustee or any Receiver pursuant to Clauses 13.2 to 13.4 (*Delegation*) and any person appointed as attorney of the Trustee and/or any Receiver or Delegate

"Event of Default" means any event or circumstance specified as such in Clause 3 (*Events of Default*)

"Expenses" means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Trustee or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Chargor under the terms of this Deed) or by law in each case on a full indemnity basis

"Finance Documents" means

- (a) this Deed,
- (b) the Schedule of Contributions,
- (c) the Deed of Priority,
- (d) the Recovery Plan, and
- (e) any other document to which the Chargor or the Company is a party, relating to the Scheme and which the Chargor and the Trustee designate in writing as a Finance Document

"Liability Period" means the period beginning on the date of this Deed and ending on the date on which the Trustee is satisfied, acting in good faith, that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full

"LPA" means the Law of Property Act 1925

"Lloyds Security Documents" means

- (a) a debenture dated 24 November 2009 entered into by the Chargor in favour of Lloyds Bank plc,
- (b) a guarantee and set-off agreement dated 24 November 2009 entered into by amongst others the Chargor in favour of Lloyds Bank plc, and
- (c) an omnibus guarantee and set-off agreement dated 11 October 2010 entered into by amongst others the Chargor in favour of Lloyds Bank plc

"Quasi Security" means "Quasi-Security" means an arrangement or transaction to

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by or any other member of the Group,
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms,
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts, or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset

“RBS Security Documents” means the deed of charge over balances dated or to be dated on or around 30 November 2013 and executed by the Chargor

“Receiver” means a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Charged Property

“Recovery Plan” means the recovery plan dated 15 February 2013, in the form set out in Annex II hereto or (as the context requires) any later recovery plan agreed between the Company and the Trustee as replacing or restating such recovery plan or replacing or restating any such later replacement or restatement

“Ridgeway Contract” means the Specified Contract with Ridgeway Grain Limited referred to in the Schedule

“Schedule of Contributions” means the schedule of contributions dated 15 February 2013 set out in Annex I hereto or (as the context requires) any later schedule of contributions agreed between the Company and the Trustee as replacing or restating such schedule of contributions or replacing or restating any such later replacement or restatement

“Secured Liabilities” means all present and future indebtedness, moneys, obligations and liabilities of the Chargor or (in the context of Clauses 2.1 and 2.2) the Company, in respect of the Recovery Plan, in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability arising under the Finance Documents, together with all Expenses and all interest under Clause 2.3 (*Interest*)

“Security” means mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

“Specified Contracts” means

- (a) each of the contracts specified in the Schedule (*Specified Contracts*) which contracts relate to certain grain storage rights granted to the Chargor by the warehouse-keepers, grain storage companies or other persons identified in the Schedule, and
- (b) each other contract relating to grain storage (to which the Chargor is a party) which may be designated by the Trustee and the Chargor at any time as a Specified Contract

“Storage Rights” means the rights of the Chargor to have a particular quantity of grain stored with a storage company under a Specified Contract as specified in the fifth column of the Schedule

“Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

“VAT” means

- (a) any tax imposed in compliance with Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and
- (b) any other tax of a similar nature whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere

Construction

- 1.2 Any reference in this Deed to
- 1.2.1 the “Trustee”, the “Chargor”, the “Company” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees
 - 1.2.2 “assets” includes present and future properties, revenues and rights of every description,
 - 1.2.3 “indebtedness” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent,
 - 1.2.4 a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust joint venture, consortium or partnership (whether or not having separate legal personality),
 - 1.2.5 a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation, and
 - 1.2.6 a provision of law is a reference to that provision as amended or re-enacted
- 1.3 Clause and Schedule headings are for ease of reference only
- 1.4 Any reference in this Deed to a mortgage, charge or assignment of any asset shall be construed so as to include
- 1.4.1 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset,
 - 1.4.2 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset, and
- 1.5 Each term in any Finance Document is, to the extent not set out in or otherwise incorporated into this Deed, deemed to be incorporated into this Deed insofar as is necessary to comply with Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 but, except where stated otherwise, if there is any conflict between that incorporated term and any other term of this Deed that other term shall prevail
- 1.6 Any reference in this Deed to any Finance Document or any other agreement or other document shall be construed as a reference to that Finance Document or that other agreement or document as the same may have been or may from time to time be, restated, varied, amended, supplemented, substituted novated or assigned, whether or not as a result of any of the same
- 1.6.1 there is an increase or decrease in the liability of the Chargor or the Company under that Finance Document or other agreement or document or an increase or decrease in the period over which such liability subsists
 - 1.6.2 any additional, further or substituted facility to or for such facility is provided,
 - 1.6.3 any rate of interest, commission or fees or relevant purpose is changed,
 - 1.6.4 the identity of the parties is changed,

- 1 6 5 the identity of the providers of any security is changed,
- 1 6 6 there is an increased or additional liability on the part of any person, or
- 1 6 7 a new agreement is effectively created or deemed to be created
- 1 7 Any reference in this Deed to “**this Deed**” shall be deemed to be a reference to this Deed as a whole and not limited to the particular Clause, Schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended or restated from time to time and any reference in this Deed to a “**Clause**” or a “**Schedule**” is, unless otherwise provided, a reference to a Clause or a Schedule of this Deed
- 1 8 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa
- 1 9 Where any provision of this Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision
- 1 10 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Trustee may not execute this document as a deed
- 1 11 Any change in the constitution of the Trustee or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed

Third Party Rights

- 1 12 Nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999

Deed of Priority

- 1 13 This Deed is subject to the Deed of Priority and in the event of any inconsistency between the terms of this Deed and the Deed of Priority the Deed of Priority shall take precedence

2 Covenant to Pay and Guarantee

Covenant to Pay

- 2 1 The Chargor covenants with the Trustee that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Finance Documents

Guarantee and Indemnity

- 2 2 The Chargor irrevocably and unconditionally
 - 2 2 1 guarantees to the Trustee punctual payment, performance and discharge by the Company of the Secured Liabilities, insofar as the Secured Liabilities are owed by, or liabilities of, the Company,
 - 2 2 2 undertakes with the Trustee that whenever the Company does not pay any amount or perform or discharge any obligation in respect of such Secured Liabilities when due, the Chargor shall immediately on demand pay that amount or perform or discharge that obligation as if it was the principal obligor and

- 2 2 3 agrees with the Trustee that if, for any reason, any amount claimed by the Trustee under this Clause 2 2 is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify the Trustee on demand against any cost, loss or liability the Trustee incurs as a result of the Company not paying any amount or performing or discharging any obligation expressed to be payable by it or otherwise due from it in respect of the relevant Secured Liabilities on the date when it is expressed to be due. The amount payable by the Chargor under this indemnity will not exceed the amount it would have had to pay under this Clause 2 2 if the amount claimed had been recoverable on the basis of a guarantee.

Provided that the maximum amount recoverable from the Chargor under this Deed (whether pursuant to the Clause 2 2 or otherwise) shall not exceed £2,000,000

Interest

- 2 3 The Chargor covenants with the Trustee to pay interest on any amounts due under Clause 2 1 (*Covenant to Pay*) and/or Clause 2 2 (*Guarantee and Indemnity*) from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of any person) at the rate of 2 percent above the base rate of Lloyds Bank plc, **provided that**, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.

3 Events of Default

- 3 1 Each of the events or circumstances set out in this Clause 3 is an Event of Default.

Non payment

- 3 2 The Chargor does not pay on the due date any Secured Liability at the place at and in the currency in which it is expressed to be payable.

Finance Documents

- 3 3 The Chargor does not comply with any other provisions of any Finance Document to which it is a party where

3 3 1 such provision consists of any of the undertakings contained in Clauses 8 2 to 8 5 below, or

3 3 2 the interests of the Trustee are materially prejudiced by such non-compliance,

unless in any such case the relevant non-compliance is remedied within 20 Business Days or (in relation to Clause 8 2 or Clause 8 5) within 2 Business Days.

Insolvency Proceedings

- 3 4 Any board or shareholders resolution is passed or formal, legal proceedings are taken in relation to

3 4 1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or voluntary arrangement of the Chargor or the Company,

3 4 2 a composition or compromise with any class of creditor of the Chargor or the Company by reason of, or with a view to avoiding, actual or anticipated financial difficulties,

3 4 3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Chargor or the Company or any of its assets, or

3 4 4 enforcement of any Security over any assets of the Chargor or the Company,

or any analogous procedure or step is taken in any jurisdiction

3 5 Clause 3 4 shall not apply to any winding-up petition which is (a) frivolous or vexatious or (b) contested in good faith and, in either case is discharged, stayed or dismissed within 10 Business Days of commencement

4 Fixed Security

Charges

4 1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Trustee by way of first fixed charge all of its right, title and interest in and to

4 1 1 the Storage Rights in respect of all the Specified Contracts, and

4 1 2 the Ridgeway Contract itself,

including, in each case, but without limitation, the right to demand and receive all moneys whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them

5 Perfection of Security

Notices of Charge and Assignment

5 1 Subject to Clause 5 2 below, the Chargor shall, promptly upon the request of the Trustee from time to time, give or join the Trustee in giving a notice in such form as the Trustee may reasonably require to each of the counterparties to each Specified Contract Each such notice shall be duly signed by or on behalf of the Chargor and it shall use reasonable endeavours to procure that each of the persons on whom any such notice is served promptly provides to the Trustee a duly signed acknowledgement of that notice in such form as the Trustee may reasonably require

5 2 The Trustee shall only be entitled to request the Chargor to give the notices referred to in Clause 5 1 above following the occurrence of an Event of Default

6 Further Assurance

Further Assurance

6 1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Trustee or any Receiver may reasonably specify (and in such form as the Trustee or any Receiver may reasonably require in favour of the Trustee or its nominee(s)) to

6 1 1 perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge, assignment or other Security over all or any of the assets forming part of, or which are intended to form part of the Charged Property),

- 6.1.2 confer on the Trustee Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed,
- 6.1.3 facilitate the exercise of any rights, powers and remedies of the Trustee or any Receiver or Delegate provided by or pursuant to this Deed or by law,
- 6.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property (and, without prejudice to the generality of the foregoing, the Chargor shall, if so required by the Trustee after the security constituted by this Deed becomes enforceable, retire as a member of any relevant grain storage company, if such retirement is necessary in order for the Trustee to be able to assign its rights under any Specified Contract), and/or
- 6.1.5 create any charge by way of legal mortgage over any freehold commonhold or leasehold property which becomes vested in the Chargor after the date of this Deed

Necessary Action

- 6.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Trustee by or pursuant to this Deed

Implied Covenants for Title

- 6.3 Each of the mortgages, charges and assignments granted by the Chargor under this Deed are granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994, save that the covenants set out in Section 2(1)(a), Section 3 and Section 4 of that Act shall extend to the Chargor without, in each case, the benefit of Section 6(2) of that Act

7 Representations

- 7.1 The Chargor makes the representations and warranties set out in this Clause 7 on the date of this Agreement

Status

- 7.2 It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation
- 7.3 It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted

Binding Obligations

- 7.4 The obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations

Non-conflict with other Obligations

- 7.5 The entry into and performance by it of, and the transactions contemplated by, the Finance Documents and the granting of the Security do not and will not conflict with
 - 7.5.1 any law or regulation applicable to it,
 - 7.5.2 the constitutional documents of any member of the Group, or

- 7 5 3 any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument,

nor (except as provided in any Finance Document) result in the existence or imposition of, or oblige it or any member of the Group to create, any Security in favour of any person over all or any of its or any member of the Group's assets

Power and Authority

- 7 6 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents
- 7 7 No limit on its powers will be exceeded as a result of the grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party

Validity and Admissibility in Evidence

- 7 8 All Authorisations required
- 7 8 1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party,
- 7 8 2 to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation, and
- 7 8 3 to enable it to create any Security expressed to be created by it by or pursuant to, or, as the case may be, any Security expressed to have been created by it and to be evidenced in, any Finance Document and to ensure that such Security has the priority and ranking it is expressed to have,

have been obtained or effected and are in full force and effect

Creation of Security

- 7 9 This Deed, evidences in favour of the Trustee, the Security which that it purports to create or evidence and that Security is valid and effective

No Proceedings Pending or Threatened

- 7 10 No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or the Company

No Breach of Laws

- 7 11 Neither it nor the Company has breached any law or regulation which breach might reasonably be expected to have a Material Adverse Effect
- 7 12 No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against it or the Company which might reasonably be expected to have a Material Adverse Effect

Security

- 7 13 Save for the Lloyds Security Documents and the RBS Security Documents no Security or Quasi Security exists over all or any of the present and future assets of the Chargor

Legal and Beneficial Ownership

- 7 14 It is the sole legal and beneficial owner of the respective assets over which it purports to grant Security

8 Undertakings

General

- 8 1 The undertakings in this Clause 8 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed

Negative Pledge No Dealings

- 8 2 The Chargor shall not create or extend or permit to arise or subsist any Security over the whole or any part of the Charged Property or any Specified Contract or enter into any Quasi Security in respect of any asset forming part of, or intended to form part of, the Charged Property, or any Specified Contract other than under this Deed or the Lloyds Security Documents. Furthermore, the Chargor shall not assign or otherwise deal with the Charged Property without first obtaining the Trustee's written consent (such consent not to be unreasonably withheld or delayed)

Authorisations

- 8 3 The Chargor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect, and supply certified copies to the Trustee of, any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Deed

Compliance with Laws and Regulations

- 8 4 The Chargor shall comply in all respects with all laws and regulations to which it or any Charged Property may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Deed

Specified Contracts

- 8 5 The Chargor shall not make or agree to make any amendments, variations or modifications to the Specified Contracts or waive any of its rights under the Specified Contracts, without the prior written consent (such consent not to be unreasonably withheld or delayed) of the Trustee. Furthermore

8 5 1 the Chargor, shall do all such acts and things or shall ensure that each Specified Contract remains in full force and effect, and shall duly perform all its material obligations thereunder, and

8 5 2 in relation to each Specified Contract, the Chargor shall keep the Trustee informed from time to time as to the status of such Specified Contract, shall promptly forward to the Trustee copies of all and any material communications between the Company and its counterparty under such Specified Contract, and shall provide to the Trustee such further information in relation to the same as the Trustee may from time to time reasonably require

If the Chargor should be in breach of Clause 8.5.1, the Trustee shall be entitled to take all and any action which it considers necessary or desirable to remedy the breach, and the Chargor, shall indemnify the Trustee for any cost or expense which it may thereby incur

Information

- 8.6 The Chargor shall promptly supply to the Trustee such information as the Trustee may reasonably require about the Charged Property and the Specified Contracts and its compliance with the terms of this Deed and such further information regarding its financial condition, assets and operations as the Trustee may reasonably request
- 8.7 The Chargor shall promptly notify the Trustee in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or the Specified Contracts or of any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand, together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Trustee's approval of such proposals, implement them at its own expense

Notices relating to Charged Property

- 8.8 The Chargor shall, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property
- 8.8.1 deliver a copy to the Trustee,
- 8.8.2 inform the Trustee of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice, and
- 8.8.3 comply with any reasonable request by the Trustee to take such action as the Trustee may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Deed

Not Jeopardise Security

- 8.9 The Chargor shall not do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to the Trustee of the security constituted or intended to be constituted by this Deed, except to the extent expressly permitted by the terms of this Deed

9 Enforcement of Security

When Security becomes Enforceable

- 9.1 The security constituted by this Deed shall become immediately enforceable and the power of sale and other powers conferred by Section 101 of the LPA, as varied or extended by this Deed, shall be immediately exercisable upon and at any time after the occurrence of an Event of Default
- 9.2 After the occurrence of an Event of Default, or at the request of the Chargor, the Trustee may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property

Redemption of Prior Mortgages

- 9.3 At any time after the security constituted by this Deed has become enforceable, the Trustee or any Receiver may

- 9 3 1 redeem any prior Security over any Charged Property, or
- 9 3 2 procure the transfer of that Security to the Trustee, or
- 9 3 3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor)
- 9 4 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to the Trustee and every Receiver on demand and shall be secured by this Deed

10 Extension and Variation of the LPA

General

- 10 1 For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed
- 10 2 Section 103 of the LPA (restricting the power of sale) and Section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed
- 10 3 The statutory powers of leasing conferred on the Trustee are extended so as to authorise the Trustee and any Receiver at any time after the security constituted by this Deed has become enforceable to make any lease or agreement for lease, accept surrenders of leases and/or grant options on such terms as it or he shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the LPA

Privileges

- 10 4 Each Receiver and the Trustee is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers

11 Appointment of Receiver and Administrator

Appointment

- 11 1 At any time after the occurrence of an Event of Default, or at the request of the Chargor, or if an application is presented for the making of an administration order in relation to the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if the Chargor so requests the Trustee in writing (in each such case, the security constituted by this Deed shall become immediately enforceable), the Trustee may without prior notice to the Chargor

- 11 1 1 appoint free from the restrictions imposed by Section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Trustee had become entitled under the LPA to exercise the power of sale conferred under the LPA, or

- 11 1 2 appoint one or more persons to be an administrator of the Chargor

Removal

- 11 2 The Trustee may by writing under its hand (or by an application to the court where required by law)
- 11 2 1 remove any Receiver appointed by it, and

- 11.2.2 may, whenever it deems it expedient, appoint any one or more persons to be a new Receiver in the place of or in addition to any Receiver

Statutory Powers of Appointment

- 11.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Trustee under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Trustee in respect of any part or parts of the Charged Property

Capacity of Receiver

- 11.4 Each Receiver shall be deemed to be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him
- 11.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Trustee
- 11.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver

Remuneration of Receiver

- 11.7 The Trustee may fix the remuneration of any Receiver appointed by it without any restriction imposed by Section 109(6) of the LPA 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 the Trustee

12 Powers of Receiver

General

- 12.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this Clause 12 in addition to those conferred by law
- 12.2 Without prejudice to the generality of this Clause 12, each Receiver shall have all the rights, powers and discretions of an administrative receiver under Schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not

Specific Powers

- 12.3 Each Receiver shall have the following powers (and every reference in this Clause 12.3 to the "Charged Property" shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed)
- 12.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit,
- 12.3.2 power to take immediate possession of, get in and collect any Charged Property,
- 12.3.3 power to carry on the business of the Chargor as he thinks fit,
- 12.3.4 power (but without any obligation to do so) to

- (a) make and effect all repairs, alterations, additions and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property,
- (b) commence or complete any building operations on the Charged Property,
- (c) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence, and
- (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the acquisition of all or any part of the Charged Property and represent the Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,

in each case as he thinks fit,

- 12 3 5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by the Chargor (and the costs incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the Chargor on demand and until so reimbursed shall carry interest at the rate specified in Clause 2 3 (*Interest*) from the date of payment by the Receiver until reimbursed (after as well as before any judgment)),
- 12 3 6 power to raise and borrow money either unsecured or (with the prior consent of the Trustee) on the security of any Charged Property either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose he thinks fit,
- 12 3 7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit,
- 12 3 8 power to sever and sell separately any fixtures from the property containing them without the consent of the Chargor,
- 12 3 9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender),
- 12 3 10 power to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Property,
- 12 3 11 power to bring prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to the Chargor which may seem to him to be expedient,
- 12 3 12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property,
- 12 3 13 power to form a subsidiary of the Chargor and transfer to that subsidiary any Charged Property,

- 12 3 14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit,
- 12 3 15 power to call any meeting of the members or directors of the Chargor in order to consider such resolutions or other business as he thinks fit,
- 12 3 16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same
- 12 3 17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed, and
- 12 3 18 power to exercise any of the above powers in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor

Trustee's Powers

- 12 4 To the fullest extent permitted by law, any right power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may after the security constituted by this Deed has become enforceable be exercised by the Trustee in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver

13 Discretions and Delegation

Discretion

- 13 1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Trustee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons

Delegation

- 13 2 Each of the Trustee and 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)
- 13 3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Trustee or any Receiver (as the case may be) shall think fit
- 13 4 Neither the Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

14 Power of Attorney

Appointment and Powers

- 14 1 The Chargor, by way of security, irrevocably appoints the Trustee, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for

- 14 1 1 carrying out any obligation imposed on the Chargor by this Deed, and

- 14 1 2 enabling the Trustee or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property)

Ratification

- 14 2 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under Clause 14 1 (*Appointment and Powers*)

15 Protection of Purchasers

Consideration

- 15 1 The receipt of the Trustee 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 Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Trustee, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit

Protection of Third Parties

- 15 2 No person (including a purchaser) dealing with the Trustee, any Receiver or any Delegate shall be bound to enquire
- 15 2 1 whether the Secured Liabilities have become payable, or
- 15 2 2 whether any power which the Trustee or any Receiver or Delegate is purporting to exercise has arisen or become exercisable, or
- 15 2 3 whether any money remains due under the Finance Documents, or
- 15 2 4 how any money paid to the Trustee or to any Receiver or Delegate is to be applied,
- or shall be concerned with any propriety, regularity or purpose on the part of the Trustee or any Receiver or Delegate in such dealings or in the exercise of any such power

16 Application of Proceeds

Order of Application

- 16 1 Subject to Clause 19 8, all moneys received or recovered by the Trustee, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order (but without prejudice to the right of the Trustee to recover any shortfall from the Chargor)
- 16 1 1 in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights and powers, including his remuneration, and all outgoings paid by him,
- 16 1 2 in or towards payment of all other Expenses,
- 16 1 3 in or towards payment of all other Secured Liabilities or such part of them as is then due and payable to the Trustee,

16.1.4 in payment into a suspense account (or security realisation account) of an amount equal to the total of all sums which in future may fall due for payment in respect of the Secured Liabilities, such amount not exceeding £2,000,000 in any event, and

16.1.5 in payment of the surplus (if any) to the Chargor or other person entitled to it

16.2 Clause 16.1 (*Order of Application*) will override any appropriation made by the Chargor

New Accounts

16.3 If the Trustee at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting any Charged Property, the Trustee may open a new account with the Chargor

16.4 If the Trustee does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received, such notice. As from that time all payments made by or on behalf of the Chargor shall be credited or be treated as having been credited to the new account of the Chargor and not as having been applied in reduction of the Secured Liabilities

Currency Conversion

16.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Trustee may (in its absolute discretion) convert any moneys received or recovered by it or any Receiver or Delegate pursuant to this Deed or any moneys subject to application by it or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Lloyds Bank plc spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Trustee. Nothing in this Deed shall require the Trustee to make, or shall impose any duty of care on the Trustee in respect of, any such currency conversion

17 No Liability as Mortgagee in Possession

17.1 Neither the Trustee nor any Receiver or Delegate shall in any circumstances (either by reason of entering into or taking possession of any Charged Property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargor for anything, except actual receipts, or be liable to the Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Trustee, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Trustee or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property or the Finance Documents

18 Effectiveness of Guarantee and Security

Continuing Guarantee and Security

18.1 The guarantee and security constituted by this Deed shall remain in full force and effect as a continuing guarantee and security for the Secured Liabilities, unless and until discharged by the Trustee, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part

Cumulative Rights

18.2 The guarantee and security constituted by this Deed and all rights, powers and remedies of the Trustee provided by or pursuant to this Deed or by law shall be cumulative and in addition to,

and independent of, any other guarantee or Security now or subsequently held by the Trustee for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Trustee (whether in its capacity as trustee or otherwise) over the whole or any part of the Charged Property shall be superseded by, or supersede or merge into, the security constituted by this Deed.

Reinstatement

- 18.3 If any discharge, release or arrangement (whether in respect of the obligations of Chargor or any Security for those obligations or otherwise) is made by the Trustee in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under the guarantee and security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- 18.4 The Trustee may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

Waiver of Defences

- 18.5 Neither the obligations of the Chargor under this Deed nor the security constituted by this Deed nor the rights, powers and remedies of the Trustee provided by or pursuant to this Deed or by law will be affected by an act, omission, matter or thing which, but for this Clause 18.5, would reduce, release or prejudice any of its obligations under this Deed, any of that security or any of those rights, powers and remedies (without limitation and whether or not known to it or the Trustee) including:
- 18.5.1 any time, waiver or consent granted to, or composition with, the Company or the Chargor or any other person,
 - 18.5.2 the release of any person under the terms of any composition or arrangement with any creditor of any member of the Group,
 - 18.5.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Company or the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security,
 - 18.5.4 any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, the Company, the Chargor or any other person,
 - 18.5.5 any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of any Finance Document or any other document or Security including without limitation any change in the purpose of, any extension of or any increase in, any facility or the addition of any new facility under any Finance Document or other document or Security,
 - 18.5.6 any unenforceability, illegality or invalidity of any obligation of the Company, the Chargor or any other person under any Finance Document or any other document or Security, or
 - 18.5.7 any insolvency or similar proceedings.

Chargor Intent

- 18.6 Without prejudice to the generality of Clause 18.5 (*Waiver of Defences*), the Chargor expressly confirms that it intends that the guarantee constituted by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any amount payable or prospectively payable under any of the Finance Documents

Immediate Recourse

- 18.7 The Chargor waives any right it may have of first requiring the Trustee to proceed against or enforce any other rights or Security or claim payment from any person or file any proof or claim in any insolvency, administration, winding up or liquidation proceedings relating to any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of any Finance Document to the contrary

Appropriations

- 18.8 Until all the Secured Liabilities which may be or become payable by the Chargor under or in connection with this Deed have been irrevocably paid, performed and discharged in full, the Trustee may
- 18.8.1 without affecting the liability of the Chargor under this Deed
- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it in respect of the Secured Liabilities, or
 - (b) apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to direct the appropriation of any such moneys, Security or rights or to enjoy the benefit of the same, and/or
- 18.8.2 hold in a suspense account any moneys received from the Chargor or on account of the Chargor's liability in respect of the Secured Liabilities. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Trustee to be a fair market rate

Deferral of Chargor's Rights

- 18.9 Until the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, have been irrevocably paid, performed or discharged in full and unless the Trustee otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under, Clause 2.2 (*Guarantee and Indemnity*) to
- 18.9.1 be indemnified by the Company,
- 18.9.2 claim any contribution from any other guarantor of the Company's obligations under the Finance Documents,
- 18.9.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Trustee under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Trustee,
- 18.9.4 bring legal or other proceedings for an order requiring the Company to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under Clause 2.2 (*Guarantee and Indemnity*),

- 18 9 5 exercise any right of set-off against the Company or any other member of the Group, and/or
- 18 9 6 claim or prove as a creditor of the Company or any other member of the Group or in its estate in competition with the Trustee
- 18 10 The rights of the Trustee under Clause 18 9 above shall be free from any right of quasi-retainer or other rule or principle of fund ascertainment arising either at law or in equity
- 18 11 If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 18 9 above, it shall hold that benefit, payment or distribution to the extent necessary to enable all the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, to be repaid in full on trust for the Trustee and shall promptly pay or transfer the same to the Trustee or as the Trustee may direct for application in accordance with Clause 16 1 (*Order of Application*)

19 Payments

Manner of Payments

- 19 1 The Chargor shall make all payments required to be made by it under this Deed available to the Trustee (unless a contrary indication appears in this Deed) for value on the due date at the time and in Sterling

No Set-off by Chargor

- 19 2 All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim

20 Expenses, Stamp Taxes and Indemnities

Expenses

- 20 1 The Chargor shall promptly on demand pay to the Trustee and each Receiver or Delegate the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other documents referred to in this Deed and in responding to, evaluating, negotiating or complying with any request for an amendment, waiver or consent made by the Chargor in relation to this Deed
- 20 2 The Chargor shall, within three business days of demand, pay to the Trustee and each Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by any of them in connection with the enforcement of, or the defence, protection and/or preservation of, any rights, remedies and powers under this Deed or the security constituted, or intended to be constituted, by this Deed and any proceedings instituted by or against the Trustee as a consequence of taking or holding the security constituted, or intended to be constituted, by this Deed or enforcing any such rights, powers and remedies

Stamp Taxes

- 20 3 The Chargor shall pay, and shall promptly on demand indemnify the Trustee and every Receiver or Delegate against any cost, loss or liability any of them incurs in relation to, all stamp duty, registration and similar Taxes payable in connection with the entry into, performance or enforcement, of this Deed, the security constituted by this Deed or any judgment given in connection with this Deed

General Indemnity

- 20 4 The Chargor shall, notwithstanding the release or discharge of all or any part of the security constituted by this Deed, promptly indemnify the Trustee and every Receiver and Delegate against any cost, loss, liability or damage incurred by any of them as a result of
- 20 4 1 any default or delay by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed,
- 20 4 2 the taking, holding, protection or enforcement of the security constituted by this Deed, and
- 20 4 3 the exercise of any of the rights, powers, discretions and remedies vested in the Trustee and each Receiver and Delegate by this Deed or by law in respect of the Charged Property

Value Added Tax

- 20 5 Any cost or expense referred to in this Clause 20 is exclusive of any VAT that might be chargeable in connection with that cost or expense. If any VAT is so chargeable, it shall be paid by the Chargor at the same time as it pays the relevant cost or expense

21 Certificates and Determinations

- 21 1 Any certificate or determination by the Trustee of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates

22 Partial Invalidity

- 22 1 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 of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security constituted, or intended to be constituted, by this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security

23 Remedies and Waivers

- 23 1 No failure to exercise, nor any delay in exercising, on the part of the Trustee, any right, remedy or power under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right, remedy or power prevent any further or other exercise or the exercise of any other right, remedy or power. The rights, remedies and powers provided in this Deed are cumulative and not exclusive of any rights, remedies or powers provided by law
- 23 2 Any amendment, waiver or consent by the Trustee under this Deed must be in writing and may be given subject to any conditions thought fit by the Trustee. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given

24 Notices

Communications in writing

- 24 1 Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter

Addresses

- 24 2 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of the Chargor and the Trustee for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below

Chargor

Address Honey Pot Lane
Colsterworth
Grantham
Lincolnshire NG33 5LY

Fax Number 01476 862 698

For the Attention of John Stables, Group Finance Director

Trustee

Address Honey Pot Lane
Colsterworth
Grantham
Lincolnshire NG33 5LY

Fax Number 01264 321 590

For the Attention of John Roberts, Company Secretary

or any substitute address, fax number or department or officer as the Chargor may notify to the Trustee or, as the case may be, the Trustee may notify to the Chargor, in each case by not less than five Business Days' notice

Delivery

- 24 3 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective
- 24 3 1 if by way of fax, when received in legible form, or
- 24 3 2 if by way of letter, when it has been left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address,
- and, if a particular department or officer is specified as part of its address details provided under Clause 24 2 (*Addresses*), if addressed to that department or officer
- 24 4 Any communication or document to be made or delivered to the Trustee will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified with the Trustee's name in Clause 24 2 (*Addresses*) (or any substitute department or officer as it shall specify for this purpose)

English Language

- 24 5 Any notice or communication given or made under or in connection with this Deed must be in English

25 Counterparts

- 25.1 This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed. Delivery of an electronic counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

26 Assignment

- 26.1 The Trustee may assign, charge or transfer, all or any of its rights under this Deed without the consent of the Chargor. The Trustee may disclose any information about the Chargor and this Deed as the Trustee shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

27 Releases

- 27.1 Upon the expiry of the Liability Period (but not otherwise) and subject to Clauses 18.3 and 18.4 (*Restatement*), the Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.

28 Governing Law

- 28.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

IN WITNESS of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

Schedule

Specified Contracts

Document	Date	Parties	Description	Storage rights to which this Deed applies (tonnes)
Members Agreement	3 December 2010	(1) Openfield Agriculture Limited (2) Angus Cereals Limited	Agreement with Angus Cereals Limited	6,108
Storage and Marketing Agreement	1 July 1997	(1) The Southern Counties Agricultural Trading Society Ltd (now known as Openfield Agriculture Limited) (2) Wiltshire Grain Limited	Agreement with Wiltshire Grain Limited	2,550
Storage and Marketing Agreement	1 July 1993	(1) The Southern Counties Agricultural Trading Society Ltd (now known as Openfield Agriculture Limited) (2) Hampshire Grain Ltd	Agreement with Hampshire Grain Limited	2,500
Storage Agreement	1 July 2005	(1) Granfarmers Plc (now known as Openfield Agriculture Limited) (2) Weald Granary Limited	Agreement with Weald Granary Limited	2,500
Members Agreement	18 June 2012	(1) Openfield Agriculture Limited (2) Ridgeway Grain Limited	Agreement with Ridgeway Grain Limited	7,900

Annex I
Schedule of Contributions

2023

Schedule of Contributions

Grainfarmers Group Pension and Life Assurance Scheme

This schedule of contributions has been prepared by the trustees, after obtaining the advice of Ian Capper, the Scheme Actuary. It replaces the previous schedule of contributions which was actuarially certified on 15 December 2009.

Period covered by this schedule of contributions

This schedule of contributions takes effect from 15 February 2013 and ends on 30 June 2023.

Contributions by active members

Not applicable

Contributions by employer in respect of expenses

The employer will pay on behalf of the scheme the levies due to the Pension Protection Fund. The employer will also pay all management and administration expenses as and when they are due.

Contributions by employer in respect of the shortfall in funding

In accordance with the recovery plan following the 31 July 2011 actuarial valuation, the employer will pay monthly contributions as follows, with all contributions being paid by the end of the calendar month to which they relate:

- £10,000 per month from 1 July 2013 to 30 June 2015
- £20,000 per month from 1 July 2015 to 30 June 2017
- £30,000 per month from 1 July 2017 to 30 June 2023

In addition, with effect from the company's financial year ending 30 June 2014, the employer will allocate to the pension scheme at least 5% of any pre-tax profits in excess of £5,000,000, this amount to be paid to the scheme within 12 months of the end of the financial year in which the relevant profits were made.

Additional employer contributions

The employer may pay additional contributions of any amount and at any time from those set out above.

Signed on behalf of the trustees of the Grainfarmers Group Pension and Life Assurance Scheme

Name D. A. J. Dowty
Position TRUSTEE
Date 15 February 2013

Signed on behalf of the employer, Openfield Group Ltd



Name *TOM STABLES*

Position *ACTING MANAGING DIRECTOR*

Date 15 February 2013

This schedule of contributions has been agreed by the trustees after obtaining actuarial advice from me

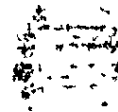
Signed



Name I N H Capper
Fellow of the Institute and Faculty of Actuaries

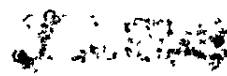
Position Scheme Actuary

Date 15 February 2013



Adequacy of rates of contributions

Grainfarmers Group Pension and Life Assurance Scheme

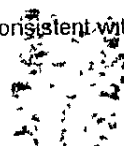


Adequacy of rates of contributions

- 1 I certify that, in my opinion, the rates of contributions shown in this schedule of contributions are such that the statutory funding objective could have been expected on 31 July 2011 to be met by the end of the period specified in the recovery plan dated 15 February 2013

Adherence to statement of funding principles

- 2 I hereby certify that, in my opinion, this schedule of contributions is consistent with the statement of funding principles dated 15 February 2013



The certification of the adequacy of the rates of contributions for the purpose of securing that the statutory funding objective can be expected to be met is not a certification of their adequacy for the purpose of securing the scheme's liabilities by the purchase of annuities, if the scheme were to be wound up

Signature



Date

15 February 2013

Name

I N H Capper

Qualification

Fellow of the Institute and Faculty of Actuaries

Address

Central Court
1b Knoll Rise
Orpington
Kent
BR6 0JA

Name of employer

JLT Benefit Solutions Limited

Annex II

Recovery Plan

Recovery Plan

Grainfarmers Group Pension and Life Assurance Scheme

Status

This recovery plan has been prepared by the trustees in conjunction with the 31 July 2011 valuation after obtaining the advice of Ian Capper, the Scheme Actuary

The actuarial valuation of the scheme as at 31 July 2011 revealed a funding shortfall (technical provisions minus value of assets) of £2,740,000

Steps to be taken to ensure that the statutory funding objective is met

To eliminate this funding shortfall, the trustees and the employers have agreed that additional contributions will be paid to the scheme by Openfield Group Limited as follows

- £10,000 per month from 1 July 2013 to 30 June 2015
- £20,000 per month from 1 July 2015 to 30 June 2017
- £30,000 per month from 1 July 2017 to 30 June 2023

Period in which the statutory funding objective should be met

The funding shortfall is expected to be eliminated by 30 June 2023. This expectation is based on the following assumptions

- technical provisions calculated according to the method and assumptions set out in the statement of funding principles dated 15 February 2013,
- the return on existing assets and the return on new contributions during the period as set out in the statement of funding principles dated 15 February 2013

Progress towards meeting the statutory funding objective

It is expected that 50% of the above contributions will be paid by 30 June 2019

Contingent asset

Agreement to this recovery plan is dependent on the provision by the company of a debenture on £2,000,000 of central storage assets being completed by 30 April 2013. If the relevant arrangements have not been formalised by that date, this recovery plan will need to be reconsidered

This recovery plan has been prepared and agreed by the trustees

Signed on behalf of the trustees of the Grainfarmers Group Pension and Life Assurance Scheme

Name


D A J DOWDY

Position

TRUSTEE

Date

15 February 2013

This recovery plan has been agreed by the employer

Signed on behalf of Openfield Group Ltd

Name

JOHN SINGLETON

Position

ATTENDING MANAGING DIRECTOR

Date

15 February 2013

This recovery plan has been agreed by the trustees after obtaining actuarial advice from me

Signed

Name

I N H Capper

Fellow of the Institute and Faculty of Actuaries

Position

Scheme Actuary

Date

15 February 2013

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by
OPENFIELD AGRICULTURE
LIMITED on being signed by
two Directors or a Director and the
Company Secretary

)
)
) (Director)
)
)
) (Director/Company Secretary)

THE TRUSTEE

EXECUTED AS A DEED by
GRAINFARMERS PENSION
TRUSTEES LIMITED on being signed
by two Directors or a Director and the
Company Secretary

)
)
) (Director)
)
)
) (Director/Company Secretary)

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by)
OPENFIELD AGRICULTURE)
LIMITED on being signed by) (Director)
two Directors or a Director and the)
Company Secretary)
(Director/Company Secretary)

THE TRUSTEE

EXECUTED AS A DEED by)
GRAINFARMERS PENSION)
TRUSTEES LIMITED on being signed) (Director)
by two Directors or a Director and the)
Company Secretary)
(Director/Company Secretary)

