

MG01

284056 / 13

Particulars of a mortgage or charge



A fee is payable with this form.

We will not accept this form unless you send the correct fee

Please see 'How to pay' on the last page



**What this form is for**

You may use this form to register particulars of a mortgage or charge in England and Wales or Northern Ireland



**What this form is NOT for**

You cannot use this form to register particulars of a charge for a company. To do this, please use form MG01s

TUESDAY



A04

\*A1J7GI00\*

09/10/2012

#317

COMPANIES HOUSE

1

**Company details**

Company number

0 4 4 1 2 3 2 6

Company name in full

Greenvale Holdings Limited (the "Chargor")



For official use



**Filling in this form**

Please complete in typescript or in bold black capitals

All fields are mandatory unless specified or indicated by \*

2

**Date of creation of charge**

Date of creation

d0 d2 m1 m0 y2 y0 y1 y2

3

**Description**

Please give a description of the instrument (if any) creating or evidencing the charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

Debenture between, inter alia, the Chargor and HSBC Corporate Trustee Company (UK) Limited (the "Debenture")

4

**Amount secured**

Please give us details of the amount secured by the mortgage or charge

Amount secured

As specified in the continuation page to this form

**Continuation page**

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

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## Particulars of a mortgage or charge

### 5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

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

Name HSBC Corporate Trustee Company (UK) Limited

Address 8 Canada Square, London

Postcode E 1 4 5 H Q

Name

Address

Postcode

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

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

Short particulars

As specified in the continuation page to this form.

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## Particulars of a mortgage or charge

### 7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount Nil

### 8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

### 9 Signature

Please sign the form here

Signature

Signature

X *Eversheds LLP*

X

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

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### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name Victoria Quek

Company name Eversheds LLP

Address One Wood Street

Post town London

County/Region

Postcode E C 2 V 7 W S

Country

DX DX 154280 Cheapside 8

Telephone 0845 497 9797



### 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:

- ☒ [x] The company name and number match the information held on the public Register
- ☒ [x] You have included the original deed with this form
- ☒ [x] You have entered the date the charge was created
- ☒ [x] You have supplied the description of the instrument
- ☒ [x] You have given details of the amount secured by the mortgagee or chargee
- ☒ [x] You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☒ [x] You have entered the short particulars of all the property mortgaged or charged
- ☒ [x] You have signed the form
- ☒ [x] You have enclosed the correct fee



### 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.

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](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto: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](http://www.companieshouse.gov.uk)

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### Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

The amount secured by the Debenture is all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor and each grantor of Security to the Secured Parties (or any of them) under each or any of the Finance Documents together with all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents or any other document evidencing or securing any such liabilities (the "**Secured Obligations**")

Capitalised terms used in this form are defined in the Appendix to this form.

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## Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

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### Fixed Charges

1. The Chargor, as a continuing security for the payment, discharge and performance of the Secured Obligations, charged in favour of the Security Trustee the following assets:
  - 1.1 by way of first legal mortgage all its Property in England and Wales (if any) listed in Schedule 4 (*Details of Property*) to the Debenture (as described in Schedule 3 to part 6 of this form);
  - 1.2 by way of first fixed charge:
    - (a) all the Property in England and Wales from time to time owned by it (but excluding any Property which is subject to a valid legal mortgage under Clause 3.1.1 of the Debenture (as described at paragraph 1.1 above));
    - (b) any other rights, title or interest of the Chargor in Property, wherever situated; and
    - (c) all Associated Rights in relation to its Property,
  - 1.3 by way of first fixed charge:
    - (a) the Designated Chattels (if any) in respect of the Chargor (but not including any of the assets which are subject to a valid legal mortgage or valid fixed charge under Clauses 3.1.1 or 3.1.2 of the Debenture (as described at paragraphs 1.1 and 1.2 above), and
    - (b) all Associated Rights in relation to such Designated Chattels;
  - 1.4 by way of first fixed charge
    - (a) all plant, machinery, vehicles and computer equipment now or in the future owned by the Chargor (but not including any such asset which is subject to a valid legal mortgage or valid fixed charge under Clauses 3.1.1, 3.1.2 or 3.1.3 of the Debenture (as described at paragraphs 1.1, 1.2 and 1.3 above) nor any chattel for the time being forming part of the Chargor's stock-in-trade or work in progress);
    - (b) the Chargor's rights, title or interest in any chattel now or in the future in its possession which is not owned by it, but which had it been so owned would have been validly charged by paragraph (a) of Clause 3.1.4 of the Debenture (as described at paragraph (a) above of this paragraph 1.4); and

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- (c) the benefit of all Associated Rights relating to any chattel validly charged by Clause 3 1 4 of the Debenture (as described in this paragraph 1.4);
- 1.5 by way of first fixed charge:
  - (a) the Shares (if any) listed in respect of the Chargor in Schedule 5 (*Shares*) of the Debenture (as described in Schedule 4 to part 6 of this form); and
  - (b) the Distribution Rights (if any) from time to time accruing to or on such Shares;
- 1.6 by way of first fixed charge:
  - (a) all Investments (but not including Shares which are subject to a valid fixed charge under Clause 3.1.5 of the Debenture (as described at paragraph 1.5 above)), and
  - (b) all Distribution Rights from time to time accruing to or on such Investments;
- 1.7 to the extent that the Insurances and/or the Insurance Proceeds are incapable for any reason of being effectively assigned pursuant to Clause 3.2 3 of the Debenture (as described at paragraph 2 3 below) but are capable of being effectively charged, by way of first fixed charge, the Insurances owned by or written in favour of the Chargor and all Insurance Proceeds either now or in the future held by or payable to the Chargor or in which the Chargor otherwise has an interest (to the extent of such interest);
- 1 8 by way of first fixed charge:
  - (a) all present and future book and other debts, revenues and monetary claims of or owing to the Chargor; and
  - (b) all rights and claims of whatever nature of the Chargor now, or which may at any time be, held or enjoyed by it against third parties and against any securities and guarantees in respect of such debts, revenues or claims,
- 1.9 by way of first fixed charge, all of the Specified Bank Balances in respect of the Chargor,
- 1 10 by way of first fixed charge, all of its Bank Balances (but not including any Specified Bank Balances which are subject to a valid fixed charge under Clause 3 1.9 of the Debenture (as described at paragraph 1 9 above);

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- 1.11 to the extent that such Intellectual Property is incapable for any reason of being effectively assigned pursuant to Clause 3.2.4 of the Debenture (as described at paragraph 2.4 below), by way of first fixed charge, all Intellectual Property (if any) owned by the Chargor or in which the Chargor has an interest (to the extent of such interest);
- 1.12 to the extent that such Authorisations and Derivative Payments are incapable for any reason of being effectively assigned pursuant to Clauses 3.2.1 or 3.2.5 of the Debenture respectively (as described at paragraphs 2.1 and 2.5 below) but are capable of being effectively charged, by way of first fixed charge:
- (a) the benefit of all Authorisations held or utilised by the Chargor in connection with its business or the use of any of its assets; and
- (b) the right to recover and receive all Derivative Payments which may at any time become payable to the Chargor in respect of such Authorisations;
- 1.13 to the extent that they do not fall within any other provision of Clause 3.1 of the Debenture (as described at paragraph 1 above) and are not effectively assigned under Clause 3.2.2 of the Debenture (as described at paragraph 2.2 below), by way of first fixed charge all of its rights under each agreement or document to which the Chargor is a party;
- 1.14 by way of first fixed charge, all the goodwill and uncalled capital of the Chargor; and
- 1.15 by way of first fixed charge, the benefit of all Associated Rights relating to any of the assets of the Chargor, in each case to the extent that such Associated Rights are capable of being made the subject of a fixed charge and are not otherwise the subject of any valid fixed charge pursuant to the Debenture.

### Assignments by way of Security

2. As further continuing security for the payment of the Secured Obligations, the Chargor assigned absolutely to the Security Trustee all (if any) its rights, title and interest in and to the following assets:
- 2.1 all Authorisations held or utilised by the Chargor in connection with its business or the use of any of its assets and the benefit of any Derivative Payment in respect of such Authorisations;
- 2.2 the Charged Contracts and the benefit of any Derivative Payment in respect of the Charged Contracts,



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- 2.3 the Insurances and the benefit of all Insurance Proceeds of the Chargor;
- 2.4 the Intellectual Property (if any) owned by the Chargor or in which the Chargor has an interest (to the extent of such interest), together with the benefit of any Derivative Payments in respect of such Intellectual Property, but in the case of any such assignment of Intellectual Property the Security Trustee shall grant to the Chargor a licence to use such Intellectual Property in the ordinary course of its business and for so long as no Event of Default exists and is continuing upon such terms as may reasonably be specified by the Security Trustee, and
- 2.5 any Associated Rights or Derivative Payment which are not the subject of a valid fixed charge pursuant to Clause 3.1 (Fixed charges) of the Debenture (as described at paragraph 1 above) or valid assignment pursuant to Clauses 3.2.1 to 3.2.4 of the Debenture (as described at paragraphs 2.1 to 2.4 above) and which relate to any of the assets of the Chargor, whether or not such assets are subject to a valid legal mortgage, fixed charge or assignment pursuant to the Debenture.

### Floating Charge

3. As further continuing security for the payment, discharge and performance to the Security Trustee of the Secured Obligations, the Chargor charged in favour of the Security Trustee, by way of first floating charge, all its assets and undertaking, wherever located, both present and future, expressly including, without limitation, any assets and undertaking situated in Scotland or otherwise governed by Scots law. The floating charge is deferred in point of priority to all fixed Security validly and effectively created by the Chargor under any of the Transaction Security Documents in favour of the Security Trustee as security for the Secured Obligations.

### Conversion into fixed charge

- 3.1 By virtue of Clause 3.6 of the Debenture, the Security Trustee may, at any time, by notice in writing to the Chargor, convert any floating charge created by the Debenture into a fixed charge as regards such assets as it shall specify in the relevant notice if:
- 3.1.1 an Event of Default has occurred which is continuing; or
- 3.1.2 the Security Trustee is of the view that: (a) such assets are in danger of being seized; (b) any legal process or execution is being enforced against such assets; (c) such assets are otherwise in jeopardy, or (d) steps have been taken which would, in the reasonable opinion of the Security Trustee, be likely to lead to the appointment of an administrator or administrative receiver in

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relation to the Chargor (or such administrator or administrative receiver has been appointed) or to the winding-up of the Chargor.

- 3.2 By way of further assurance, the Chargor shall, promptly following service of such notice upon it, execute a fixed charge over such assets in such form as the Security Trustee shall require.

#### Automatic Crystallisation

- 3.3 In addition to any circumstances in which any floating charge created under the Debenture will crystallise automatically under the general law, and without prejudice to the operation of Clause 3.6 (*Conversion of floating charge*) of the Debenture (as described at paragraph 3.1 above):

3.3.1 if the Chargor creates (or purports to create) any Security on or over any of the Floating Charge Assets (other than Permitted Security) without the prior written consent of the Security Trustee, or

3.3.2 if the Chargor convenes any meeting of its members to consider a resolution in relation to its winding up, or if a liquidator, administrative receiver, receiver, administrator or another similar officer is appointed in respect of the Chargor or any of its assets,

then and in any such event, any floating charge created by the Debenture in relation to the Chargor shall, without any notice being given under Clause 3.6 (*Conversion of floating charge*) of the Debenture (as described at paragraph 3.1 above) and immediately upon such event occurring, be converted into a fixed charge over all the assets which immediately prior to such conversion comprised the Floating Charge Assets of the Chargor

#### General

- 4 The provisions of the Debenture will apply at all times: (a) regardless of the date on which any of the Secured Obligations was incurred; and (b) in respect of the full amount of the Secured Obligations at the relevant time even if, at some other time, the amount of the Secured Obligations has been less than the amount at the relevant time or there has been no part of the Secured Obligations outstanding.
5. All the Security created by the Debenture by the Chargor is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
6. Clauses 3.1.2 to 3.1.15 of the Debenture (as described at paragraphs 1.2 to 1.15 above) inclusive shall be read and construed as if each asset described, and each asset comprised within any category of asset described, in each

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such Clause were expressed, separately and specifically, to have been made subject to a first fixed charge; and the validity and effectiveness of each such fixed charge will not be prejudiced by any other such first fixed charge being found not to be fully valid or effective as such.

7. The fact that no, or incomplete, details of any particular Secured Assets are included or inserted in any relevant Schedule to the Debenture (as described in the Schedules attached to part 6 of this form) shall not affect the validity or enforceability of the charges created by the Debenture.

### Control of monies received

8. The Chargor will collect (as agent for the Security Trustee) all Charged Debts and pay into such specially designated account with the Security Trustee or such other account with such other bank as the Security Trustee may from time to time direct all money which it shall receive in respect of such Charged Debts immediately upon receipt and pending such payment it will hold all such money upon trust for the Security Trustee.

9. The Chargor will not, without the prior written consent of the Security Trustee, charge, factor, discount or assign any of the Charged Debts in favour of any other person or purport to do so.

### Restrictions applicable to Charged Contracts

10. The Chargor will perform all its obligations under the Charged Contracts in a diligent and timely manner, not make or agree to make any amendments or modifications to the Charged Contracts, nor waive any of its rights under the Charged Contracts, nor exercise any right to terminate any of the Charged Contracts, except, in any case, with the prior written consent of the Security Trustee and will promptly inform the Security Trustee of any material disputes relating to the Charged Contracts.

### Restrictions on charges and disposals (Negative Pledge)

11. During the Security Period, subject to Clause 5.2 of the Debenture (as described at paragraph 12 below) the Chargor shall not create, extend, or permit to subsist, any Security over any of the Secured Assets; nor may it.
  - (a) sell, transfer or otherwise dispose of any of its assets on terms that they are or may be leased to or re-acquired by any of the Obligors or by any other member of the Group;
  - (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms,

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(c) enter into any arrangement under which money, debts 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 to any of the arrangements or transactions previously described in Clause 5 1 of the Debenture (as described in this paragraph 11), in any case 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

12. Clause 5 1 of the Debenture (as described in paragraph 11 above) does not apply to any Security which is Permitted Security, Permitted Transaction or Permitted Disposal under the terms of the Facilities Agreement.

### Definitions

13. Capitalised terms used in part 6 of this form are defined in the Appendix to this form.

### Schedule 1 (Specified Bank Balances)

The Debenture does not specify any Bank Accounts relating to the Chargor.

### Schedule 2 (Charged Contracts)

The Debenture does not specify any Charged Contracts relating to the Chargor.

### Schedule 3 (Details of Property)

The Debenture does not specify any Property relating to the Chargor.

### Schedule 4 (Shares)

	Name of owning Chargor	Name of Subsidiary or other company	Company Number	Number and Class of Shares (and where held by nominees, names of nominees)
1.	Greenvale Holdings Limited	Restrain Company Limited	05086793	70,000 ordinary A shares of £1 each

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**Schedule 5 (Designated Chattels)**

The Debenture does not specify any chattels relating to the Chargor

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#### APPENDIX

#### DEFINITIONS AND CONSTRUCTION

##### Definitions

In this form and its Appendices the following definitions apply:

**"Acceptable Bank"** means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of AA - or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Aa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Agent.

**"Accession Deed"** means a document substantially in the form set out in Schedule 7 (*Form of Accession Deed*) of the Facilities Agreement

**"Accounting Principles"** means in relation to each Obligor, generally accepted accounting principles in its jurisdiction of incorporation, including IFRS.

**"Acquisition"** means the acquisition by the Parent of the Target Shares on the terms of the Acquisition Documents.

**"Acquisition Agreement"** means the agreement for the sale and purchase of the Target Shares dated on or about the date of the Facilities Agreement relating to the sale and purchase of the Target Shares and made between the Parent and the Vendor.

**"Acquisition Documents"** means the Acquisition Agreement, the Disclosure Letter, the Tax Deed and any other document designated as an **"Acquisition Document"** by the Agent and the Parent.

**"Additional Borrower"** means a company which becomes an Additional Borrower in accordance with Clause 31 (*Changes to the Obligors*) of the Facilities Agreement.

**"Additional Guarantor"** means a company which becomes an Additional Guarantor in accordance with Clause 31 (*Changes to the Obligors*) of the Facilities Agreement.

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**"Agent"** means HSBC Bank plc as agent of the other Finance Parties.

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**"Ancillary Document"** means each document relating to or evidencing the terms of an Ancillary Facility.

**"Ancillary Facility"** means any ancillary facility made available by an Ancillary Lender in accordance with Clause 7 (*Ancillary Facilities*) of the Facilities Agreement

**"Ancillary Lender"** means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 7 (*Ancillary Facilities*) of the Facilities Agreement.

**"Arranger"** means HSBC Bank plc as mandated lead arranger.

**"Associated Rights"** means, in relation to any asset, all proceeds of sale of such asset, all rights, powers, benefits, covenants, warranties, guarantees or Security given or implied in respect of such asset, all rights under any agreement for sale, agreement for lease or licence of or in respect of such asset, and any monies and proceeds paid or payable in respect of such asset

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

**"Bank Balances"** means all monies (including interest) from time to time standing to the credit of any and all present or future accounts which the Chargor has, or has an interest in, with any bank, financial institution, or other person (including the Specified Bank Balances and any other cash cover or suspense account established pursuant to any of the Finance Documents) and all indebtedness represented by any such accounts.

**"Base Currency"** means Sterling

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

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day

**"Borrower"** means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 31 (*Changes to the Obligors*) of the Facilities Agreement.

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**"Cash Equivalent Investments"** means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security,
- (c) commercial paper not convertible or exchangeable to any other security:
  - (i) for which a recognised trading market exists;
  - (ii) issued by an issuer incorporated in the United States of America, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
  - (iii) which matures within one year after the relevant date of calculation; and
  - (iv) which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);
- (e) any investment in money market funds which (i) have a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (iii) can be turned into cash on not more than 30 days' notice; or



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(f) any other debt security approved by the Majority Lenders,

in each case, denominated in Sterling and euro and to which any Obligor is alone (or together with other Obligors beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents).

**"Charged Contracts"** means those contracts in respect of the Chargor (if any) brief particulars of which are set out in respect of the Chargor in Schedule 3 (*Charged Contracts*) of the Debenture (as described in Schedule 2 to part 6 of this form).

**"Charged Debts"** means all book and other debts and all other rights and claims charged to the Security Trustee pursuant to Clause 3.1 8 of the Debenture (as described at paragraph 1 8 of part 6 of this form)

**"Chargor"** has the meaning given on page 1 of this form.

**"Chargors"** means the First Chargor, any company named in Schedule 1 to the Debenture and any company which becomes a Party by executing and delivering a Deed of Accession.

**"Closing Date"** means the date on which Completion occurs. **"Companies Act"** means the Companies Act 2006.

**"Commitment"** means a Facility A Commitment or a Facility B Commitment.

**"Completion"** means the completion of the Acquisition in accordance with Clause 4 of the Acquisition Agreement.

**"Compliance Certificate"** means a certificate substantially in the form set out in Schedule 8 (*Form of Compliance Certificate*) of the Facilities Agreement.

**"Deed of Accession"** means a deed substantially in the form set out in Schedule 8 (*Form of Deed of Accession*) to the Debenture subject to such variations as the Security Trustee shall agree.

**"Default"** means an Event of Default or any event or circumstance specified in Clause 26 (*Events of Default*) of the Facilities Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**"Delegate"** means any delegate, agent, attorney or trustee appointed by the Security Trustee

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**"Derivative Payment"** means, in relation to an asset, any damages, compensation, remuneration, profit, bonus, royalties, fee, rent, income or other benefit which the Chargor may derive from or be awarded or entitled to in respect of such asset.

**"Designated Chattels"** means the plant, machinery, equipment, vehicles, and other chattels (if any) listed in respect of the Chargor in Schedule 6 (*Designated Chattels*) to the Debenture (as described at Schedule 5 to part 6 of this form) and shall include any additions, modifications and/or equipment ancillary to any such plant, machinery, equipment, vehicles or other chattels

**"Discharge Date"** means the date with effect from which the Security Trustee confirms to the First Chargor that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments of the Secured Parties under the Finance Documents cancelled.

**"Disclosure Letter"** has the meaning given to that term in the Acquisition Agreement.

**"Distribution Rights"** means all Dividends, all shares or other property derived from any relevant Investment (whether by way of conversion, consolidation, subdivision, substitution, redemption, bonus, preference, option or otherwise) and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to any relevant Investment.

**"Dividends"** means all dividends, distributions, interest and other income paid or payable on or derived from any relevant Investment.

**"Event of Default"** means any event or circumstance specified as such in Clause 26 (*Events of Default*) of the Facilities Agreement.

**"Facility A"** means the term loan facility made available under the Facilities Agreement as described in Clause 2.1 (*The Facilities*) of the Facilities Agreement.

**"Facility A Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility A Commitment" in Part II of Schedule 1 (*The Original Parties*) and the amount of any other Facility A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under this Agreement,  
  
to the extent not cancelled, reduced or transferred by it under this Agreement.

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**"Facility A Loan"** means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

**"Facility B"** means the revolving credit facility made available under the Facilities Agreement as described in Clause 2.1 (*The Facilities*) of the Facilities Agreement.

**"Facility B Commitment"** means

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Facility B Commitment" in Part II or Part III of Schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility B Commitment transferred to it under the Facilities Agreement; and
- (b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under the Facilities Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

**"Facility B Loan"** means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

**"Facilities Agreement"** means a facilities agreement dated the same date as the Debenture between, amongst others, the First Chargor, the other Chargors, HSBC Bank plc as Original Lender and the Security Trustee.

**"Fee Letter"** means:

- (a) any letter dated on or about the date of the Facilities Agreement between the Arranger and the Parent (or the Agent and the Parent or the Security Trustee and the Parent) setting out any of the fees referred to in Clause 14.5 (*Fees*) of the Facilities Agreement; and
- (b) any agreement setting out fees payable to a Finance Party referred to in Clause 2.2 (*Increase*) or Clause 15.3 (*Interest, commission and fees on Ancillary Facilities*) of the Facilities Agreement or under any other Finance Document.

**"Finance Documents"** means the Facilities Agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Loan Request and any other document designated as Finance

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Documents by the Agent and the Parent and "Finance Document" shall mean any one of them

**"Finance Party"** means the Agent, the Arranger, the Security Trustee, a Lender, a Hedge Counterparty or any Ancillary Lender.

**"Finance Lease"** means any lease or hire purchase contract which would, in accordance with the Accounting Principles, be treated as a capital lease.

**"Financial Indebtedness"** means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of any member of the Group relating to any post-retirement benefit scheme;
- (h) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under the Accounting Principles),
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or

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construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;

(j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Principles, and

(k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above.

**"Financial Quarter"** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date

**"Financial Year"** means the annual accounting period of the Group ending on or about the last Saturday in June in each year

**"First Chargor"** means Produce Investments plc.

**"Floating Charge Assets"** means, at any time, all of the Secured Assets which are at that time the subject of any floating charge created by the Debenture.

**"Group"** means the Parent and each of its respective Subsidiaries from time to time (including the Target and its Subsidiary after the Closing Date).

**"Guarantor"** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 31 (*Changes to the Obligors*) of the Facilities Agreement.

**"Hedge Counterparty"** means (a) any Original Hedge Counterparty, and (b) any New Lender which has entered into a Hedging Agreement, which, in each case, is or has become, a party to the Facilities Agreement as a Hedge Counterparty in accordance with the provisions of the Facilities Agreement.

**"Hedging Agreement"** means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Parent and a Hedge Counterparty for the purpose of hedging the types of liabilities and/or risks in relation to Facility A which the Hedging Letter (by reference to its form at the time that agreement, either requires or had required, to be hedged).

**"Hedging Letter"** means the letter dated on or before the date of the Facilities Agreement and made between the Agent and the Parent describing the hedging arrangements to be entered into in respect of the interest rate liabilities and/or the exchange rate risks of the Borrowers of, and in relation to, Facility A

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**"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**"IFRS"** means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

**"Insurance Proceeds"** means the proceeds of any insurance claim received by the Chargor (after deduction of (a) any reasonable expenses incurred in relation to the relevant claim and payable by the Chargor to any person which is not a member of the Group and (b) amounts paid to meet third party claims), together with the benefit of all bonuses, profits, returns of premium and other benefits of whatever nature arising by virtue of the Chargor's ownership of any Insurances and all the Chargor's interest in any of the foregoing.

**"Insurances"** means all contracts or policies of insurance of whatever nature which, from time to time, are taken out or maintained by or on behalf of the Chargor or (to the extent of its relevant interest) in which the Chargor has an interest.

**"Intellectual Property"** means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each member of the Group (which may now or in the future subsist).

**"Interest Period"** means, in relation to a Loan, each period determined in accordance with Clause 13 (*Interest Periods*) of the Facilities Agreement and, in relation to an Unpaid Sum, each period determined in accordance with Clause 12.3 (*Default interest*) of the Facilities Agreement.

**"Investment"** means in respect of the Chargor, any negotiable instrument, certificate of deposit, debenture, share (including, save where the context otherwise requires, any of the Shares) or other investment (as specified for the purposes of section 22 of the Financial Services and Markets Act 2000 as at the date of the Debenture) now or in the future owned by the Chargor, in each case whether held directly by, or to the order of, the Chargor or by any trustee, nominee, fiduciary or clearance system on behalf of the Chargor, and also including any rights in respect of such Investment against any such trustee, nominee, fiduciary or clearing system

**"Joint Venture"** means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

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**"Lender"** means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 30 (*Changes to the Lenders*) of the Facilities Agreement,

which in each case has not ceased to be a Party in accordance with the terms of the Facilities Agreement.

**"Loan"** means a Facility A Loan or a Facility B Loan.

**"Loan Request"** means a notice substantially in the relevant form set out in Part I of Schedule 3 (*Requests and Notices*) of the Facilities Agreement.

**"Majority Lenders"** means:

- (a) (for the purposes of Clause 41.1 (*Required consents*) of the Facilities Agreement in the context of a waiver in relation to a proposed Loan of Facility B (other than a Loan on the Closing Date) of the condition in Clause 4.2 (*Further conditions precedent*) of the Facilities Agreement), a Lender or Lenders whose Facility B Commitments aggregate more than 66⅔ per cent of the Total Facility B Commitments; and
- (b) (in any other case), a Lender or Lenders whose Commitments aggregate more than 66⅔ per cent of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66⅔ per cent of the Total Commitments immediately prior to that reduction),

except that, if a notice of acceleration has been issued under Clause 26.18 (*Acceleration*) of the Facilities Agreement and the Security has become enforceable, the Majority Lenders shall be the Lenders and Hedge Counterparties whose share in the outstanding Loans and whose Mark to Market Exposure then aggregate 66 2/3 per cent or more of the aggregate of the outstanding Loans and the Mark to Market Exposure

**"Mark to Market Exposure"** means any amount that is or would be owing to the Hedge Counterparty under a Hedging Agreement if that Hedging Agreement was or was deemed to be terminated on that date (on the basis that the Hedge Counterparty is not the Affected Party, Sterling is the Termination Currency and Market Quotations are determined by the Hedge Counterparty, as such terms are defined in the Hedging Agreement) If in any such circumstances either no amount

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would be so payable and/or an amount would be payable by the Hedge Counterparty, the Mark to Market Exposure shall be deemed to be zero.

**"Month"** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

**"Multi-account Overdraft"** means an Ancillary Facility which is an overdraft facility comprising more than one account.

**"New Lender"** has the meaning given to that term in Clause 30 (*Changes to the Lenders*) of the Facilities Agreement.

**"Obligor"** means a Borrower or a Guarantor

**"Original Borrowers"** means the Subsidiaries of the Parent listed in Part I of Schedule 1 (*The original Parties*) of the Facilities Agreement as original borrowers

**"Original Guarantors"** means the Subsidiaries of the Parent listed in Part I of Schedule 1 (*The original Parties*) of the Facilities Agreement as original guarantors (together with the Parent).

**"Original Hedge Counterparties"** means the entities listed in Part III of Schedule 1 (*The Original Parties*) to the Facilities Agreement.

**"Original Lenders"** means the financial institutions listed in Part II of Schedule 1 (*The original Parties*) of the Facilities Agreement as lenders.

**"Participating Member State"** means any member state of the European Union that has the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.



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**"Parent"** means Produce Investments plc a company incorporated in England and Wales and registered with company number 05624995.

**"Party"** means a party to the Facilities Agreement.

**"Permitted Acquisition"** means:

- (a) the Acquisition;
- (b) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal;
- (c) an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Transaction Security as soon as is reasonably practicable;
- (d) the incorporation of a company which on incorporation becomes a member of the Group, but only if:
  - (i) that company is incorporated in England and Wales with limited liability, and
  - (ii) if the shares in the company are owned by an Obligor, Security over the shares of that company, in form and substance satisfactory to the Agent, is created in favour of the Security Trustee within 30 days of the date of its incorporation;
- (e) an acquisition (not being an acquisition by the Parent), for cash consideration, of (A) all of the issued share capital of a limited liability company or (B) (if the acquisition is made by a limited liability company whose sole purpose is to make the acquisition) a business or undertaking carried on as a going concern, but only if:
  - (i) no Default is continuing on the closing date for the acquisition or would occur as a result of the acquisition;
  - (ii) the acquired company, business or undertaking is incorporated or established, and carries on its principal business in, the European Union or the United States of America and is engaged in a business substantially the same as that carried on by the Group; and

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(iii) the consideration (including associated costs and expenses) for the acquisition and any Financial Indebtedness or other assumed actual or contingent liability, in each case remaining in the acquired company (or any such business) at the date of acquisition (when aggregated with the consideration (including associated costs and expenses) for any other Permitted Acquisition and any Financial Indebtedness or other assumed actual or contingent liability, in each case remaining in any such acquired companies or businesses at the time of acquisition (the "**Total Purchase Price**") together with the amount of any investment in any Permitted Joint Venture) does not exceed £7,500,000 (or its equivalent) and in any Financial Year of the Parent does not exceed in aggregate £10,000,000 (or its equivalent),

and only if such acquisition is not funded by a Facility B Loan.

Any acquisition will only be permitted under paragraph (e) if the Parent has delivered to the Agent not later than ten Business Days before legally committing to make such acquisition a certificate signed by two directors of the Parent to which is attached a copy of the latest audited accounts (or if not available, management accounts) of the target company or business.

Such certificate must give calculations showing in reasonable detail that the Parent would have remained in compliance with its obligations under Clause 24 (*Financial covenants*) of the Facilities Agreement if the covenant tests were recalculated for the Relevant Period ending on the most recent Quarter Date consolidating the financial statements of the target company (consolidated if it has Subsidiaries) or business with the financial statements of the Group for such period on a pro forma basis and as if the consideration for the proposed acquisition had been paid at the start of that Relevant Period.

**"Permitted Disposal"** means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b), is on arm's length terms

(a) of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity,

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- (b) of any asset by a member of the Group (the "**Disposing Company**") to another member of the Group (the "**Acquiring Company**"), but if:
- (i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;
  - (ii) the Disposing Company had given Security over the asset, the Acquiring Company must give equivalent Security over that asset; and
  - (iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company;
- (c) of assets (other than shares, businesses, Real Property/Intellectual Property) in exchange for other assets comparable or superior as to type, value and quality;
- (d) of obsolete or redundant vehicles, plant and equipment for cash;
- (e) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
- (f) constituted by a licence of intellectual property rights permitted by Clause 25.27 (*Intellectual Property*) of the Facilities Agreement;
- (g) to a Joint Venture, to the extent permitted by Clause 25.10 (*Joint ventures*) of the Facilities Agreement;
- (h) arising as a result of any Permitted Security; and
- (i) of assets (other than shares) for cash where the higher of the market value and net consideration receivable (when aggregated with the higher of the market value and net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed £2,500,000 (or its equivalent) and does not exceed £5,000,000 (or its equivalent) in any Financial Year of the Parent.

**"Permitted Financial Indebtedness"** means Financial Indebtedness

- (a) to the extent covered by a letter of credit, guarantee or indemnity issued under an Ancillary Facility;

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- (b) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade or in respect of Loans made in Optional Currencies, but not a foreign exchange transaction for investment or speculative purposes;
- (c) arising under a Permitted Loan or a Permitted Guarantee or as permitted by Clause 25.31 (*Treasury Transactions*) of the Facilities Agreement;
- (d) of any person acquired by a member of the Group after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three Months following the date of acquisition;
- (e) under finance or capital leases of vehicles, plant, equipment or computers, **provided that** the aggregate capital value of all such items so leased under outstanding leases by members of the Group does not exceed £100,000 (or its equivalent in other currencies) at any time; and
- (f) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding amount of which does not exceed £500,000 (or its equivalent) in aggregate for the Group at any time.

**"Permitted Guarantee" means:**

- (a) the endorsement of negotiable instruments in the ordinary course of trade;
- (b) any performance or similar bond guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade;
- (c) any guarantee of a Joint Venture to the extent permitted by Clause 25.10 (*Joint ventures*) of the Facilities Agreement;
- (d) any guarantee permitted under Clause 25.22 (*Financial Indebtedness*) of the Facilities Agreement;
- (e) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of Permitted Security; or

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- (f) any indemnity given in the ordinary course of the documentation of an acquisition or disposal transaction which is a Permitted Acquisition or Permitted Disposal which indemnity is in a customary form and subject to customary limitations.

**"Permitted Joint Venture"** means any investment in any Joint Venture where:

- (a) the Joint Venture is incorporated, or established, and carries on its principal business, in the European Union or the United States of America;
- (b) the Joint Venture is engaged in a business substantially the same as that carried on by the Group; and
- (c) at any time, the aggregate (the **"Joint Venture Investment"**) of
- (i) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;
- (ii) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and
- (iii) the market value of any assets transferred by any member of the Group to any such Joint Venture,
- does not exceed £2,000,000 (or its equivalent in other currencies) at any time.

**"Permitted Loan"** means.

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
- (b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness (except under paragraph (c) of that definition);
- (c) a loan made to a Joint Venture to the extent permitted under Clause 25.10 (*Joint ventures*) of the Facilities Agreement;
- (d) a loan made by an Obligor (other than the Parent) to another Obligor (other than the Parent) or made by a member of the

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Group which is not an Obligor to another member of the Group (other than the Parent);

- (e) any loan made by an Obligor (other than the Parent) to a member of the Group which is not an Obligor so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed £1,000,000 (or its equivalent) at any time;
- (f) a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group does not exceed £1,000,000 (or its equivalent) at any time; and
- (g) any loan (other than a loan made by a member of the Group to another member of the Group) so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed £500,000 (or its equivalent) at any time,

so long as in the case of paragraphs (d) and (e) above the creditor of such Financial Indebtedness shall (if it is an Obligor) grant security over its rights in respect of such Financial Indebtedness in favour of the Secured Parties on terms acceptable to the Agent (acting on the instructions of the Majority Lenders)

**"Permitted Security"** means:

- (a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group,
- (b) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group (including a Multi-account Overdraft) but only so long as (i) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of members of the Group which are not Obligors and (ii) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of members of the Group which are not Obligors;
- (c) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;

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- (d) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
  - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group, and
  - (iii) the Security or Quasi-Security is removed or discharged within six Months of the date of acquisition of such asset,
- (e) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company,
  - (ii) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and
  - (iii) the Security or Quasi-Security is removed or discharged within six Months of that company becoming a member of the Group;
- (f) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group,
- (g) any Security or Quasi-Security (existing as at the date of this Agreement) over assets of any member of the Target Group so long as the Security or Quasi-Security is irrevocably removed or discharged by no later than the Closing Date,
- (h) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal,

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- (i) any Security or Quasi-Security arising as a consequence of any finance or capital lease permitted pursuant to paragraph (f) of the definition of "Permitted Financial Indebtedness";
- (j) the rent deposit deed dated 31 March 2010 granted by Greenvale AP Limited in favour of Sir Timothy James Alan Colman KG, Reverend Jonathan Sidney Peel, Mr Henry Greville Cator and Mr James Russell Colman; or
- (k) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than any permitted under paragraphs (a) to (j) above) does not exceed £20,000 (or its equivalent in other currencies).

**"Permitted Transaction"** means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the Finance Documents;
- (b) the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;
- (c) transactions (other than (i) any sale, lease, licence, transfer or other disposal and (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms.

**"Property"** means the Real Property from time to time owned by the Chargor or in which the Chargor has any other right, title, or interest. Any reference to **"Property"** also includes a reference to each separate part or parts of such Real Property.

**"Quarter Date"** means the last day of a Financial Quarter.

**"Quasi-Security"** has the meaning given to that term in Clause 25.16 (*Negative pledge*) of the Facilities Agreement.

**"Real Property"** means (a) any freehold, leasehold or immovable property, wherever situated and (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.



# MG01 - continuation page

Particulars of a mortgage or charge

6

## Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

**"Receiver"** means any one or more receivers and managers or (if the Security Trustee so specifies in the relevant appointment) receivers appointed by the Security Trustee pursuant to the Debenture in respect of the Chargor or in respect of the Secured Assets of the Chargor.

**"Resignation Letter"** means a letter substantially in the form set out in Schedule 7 (*Form of Resignation Letter*) to the Facilities Agreement.

**"Relevant Period"** has the meaning given to that term in Clause 24.1 (*Financial definitions*) of the Facilities Agreement.

**"Secured Assets"** means the assets the subject of any Security created by the Debenture.

**"Secured Parties"** means each Finance Party from time to time party to the Facilities Agreement and any Receiver or Delegate.

**"Security"** means a mortgage, charge, pledge, lien, standard security, assignation in security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Period"** means the period beginning on the date of the Debenture and ending on the Discharge Date.

**"Security Trustee"** means HSBC Corporate Trustee Company (UK) Limited acting in its capacity as trustee for the Secured Parties (including itself) in relation to the Transaction Security Documents for the purpose of and in accordance with the terms of the Finance Documents or such other or additional trustee or trustees as may from time to time be appointed in that capacity in accordance with the Finance Documents.

**"Selection Notice"** means a notice substantially in the form set out in Part II of Schedule 3 (*Requests*) to the Facilities Agreement given in accordance with Clause 13 (*Interest Periods*) of the Facilities Agreement in relation to a Facility A

**"Shares"** means all shares (if any) specified in Schedule 5 (*Shares*) to the Debenture in respect of the Chargor (as described in Schedule 4 to part 6 of this form) and also all other stocks, shares, debentures, bonds, warrants, coupons or other securities now or in the future owned by the Chargor from time to time, or any in which it has an interest.

**"Specified Bank Balances"** means all monies (including interest) from time to time standing to the credit of the accounts specified in Schedule 2 (*Bank accounts*) to the Debenture in respect of the Chargor (as described in Schedule 1 to part 6 of this form), as such accounts may be re-designated and/or re-numbered from time to time, and all indebtedness represented by any such account

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Particulars of a mortgage or charge

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## Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 1162 of the Companies Act.

**"Target"** means Rowe Farming Limited, a company incorporated under the laws of England and Wales with registered number 05291852

**"TARGET2"** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**"TARGET Day"** means any day on which TARGET2 is open for the settlement of payments in euro.

**"Target Group"** means the Target and its Subsidiaries.

**"Target Shares"** means all of the shares in Target and all warrants and options in respect of the share capital of Target.

**"Tax Deed"** has the meaning given to such term in the Acquisition Agreement.

**"Termination Date"** means the date falling four years from the date of the Facilities Agreement.

**"Total Commitments"** means the aggregate of the Total Facility A Commitments and the Total Facility B Commitments, being £27,000,000 at the date of this Agreement.

**"Total Facility A Commitments"** means the aggregate of the Facility A Commitments, being £16,000,000 at the date of this Agreement.

**"Total Facility B Commitments"** means the aggregate of Facility B Commitments, being £11,000,000 at the date of the Facilities Agreement

**"Transaction Security Documents"** means each of the documents listed as being a Transaction Security Document in paragraph 3.4 of Part I of Schedule 2 (*Conditions precedent*) to the Facilities Agreement and any document required to be delivered to the Agent under paragraph 4 of Part II of Schedule 2 (*Conditions precedent*) to the Facilities Agreement together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents

**"Transaction Security"** means the Security created or expressed to be created in favour of the Security Trustee pursuant to the Transaction Security Documents.

**"Treasury Transactions"** means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price

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Particulars of a mortgage or charge

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### Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

**"Unpaid Sum"** means any sum due and payable but unpaid by an Obligor under the Finance Documents

**"Vendor"** means Cornish Potatoes Limited (a company registered in England and Wales with company number 07179715) and Robert James Keverne Stacey

#### Construction

In this form and its Appendices the following applies:

1. **"assets"** includes present and future properties, revenues, rights and interests of every kind and reference to an **"asset"** includes any part or parts of such asset,
2. the **"First Chargor"**, the **"Security Trustee"** or any **"Chargor"**, **"Party"** or **"Obligor"**, or any of the **"Secured Parties"**, shall be construed so as to include its successors in title, permitted assigns and permitted transferees,
3. where something (or a list of things) is introduced by the word **"including"**, or by the phrase **"in particular"**, or is followed by the phrase **"or otherwise"**, the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
4. references to any Security **"created by the Debenture"** are to be deemed to include such Security created, constituted, given, made or extended by, under or pursuant to the Debenture, or by, under or pursuant to any Deed of Accession;
5. a **"Finance Document"** or a **"Transaction Document"** or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
6. **"guarantee"** includes any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to pay any deposit on behalf of, or make an investment in, or loan to, any person or to purchase assets of any person, where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
7. **"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,

**MG01 - continuation page**  
Particulars of a mortgage or charge

**6**

**Short particulars of all the property mortgaged or charged**

Please give us the short particulars of the property mortgaged or charged

Short particulars

8. 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).

unless the Debenture expressly states otherwise or the context requires otherwise, (a) each reference in the Debenture to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of the Debenture) and (b) each reference in the Debenture to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of the Debenture and whether amended or re-enacted since the date of the Debenture).



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

**Pursuant to section 869(5) & (6) of the Companies Act 2006**

**COMPANY NO. 4412326  
CHARGE NO. 7**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEBENTURE DATED 2 OCTOBER  
2012 AND CREATED BY GREENVALE HOLDINGS LIMITED FOR  
SECURING ALL MONIES DUE OR TO BECOME DUE FROM  
EACH OBLIGOR AND EACH GRANTOR OF SECURITY TO THE  
SECURED PARTIES (OR ANY OF THEM) ON ANY ACCOUNT  
WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED  
INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS  
REGISTERED PURSUANT TO CHAPTER 1 PART 25 OF THE  
COMPANIES ACT 2006 ON THE 9 OCTOBER 2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 12 OCTOBER  
2012



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES