



Registration of a Charge

Company name: **NOBLE DESSERTS HOLDINGS LIMITED**

Company number: **07104090**



X57L6SBV

Received for Electronic Filing: **23/05/2016**

Details of Charge

Date of creation: **09/05/2016**

Charge code: **0710 4090 0009**

Persons entitled: **COOPERATIEVE RABOBANK U.A TRADING AS RABOBANK AS
SECURITY AGENT**

Brief description: **THE FREEHOLD LAND KNOWN AS THE GU FACTORY LYING TO
THE NORTH OF DUNMOW ROAD, BISHOPS STORTFORD CM23 5PA
REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBERS HD276879,
HD375271, HD373019 HD258904.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT
TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC
COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

BURGES SALMON LLP (AR06)



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7104090

Charge code: 0710 4090 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th May 2016 and created by NOBLE DESSERTS HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd May 2016 .

Given at Companies House, Cardiff on 24th May 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

9 MAY 2016

LEGAL CHARGE

NOBLE DESSERTS HOLDINGS LIMITED (the **Chargor**) (1)

COÖPERATIEVE RABOBANK U.A TRADING AS RABOBANK
(as **Security Agent**) (2)

CONTENTS

Clause	Heading	Page
1	DEFINITIONS AND INTERPRETATION.....	1
2	COVENANT TO PAY	5
3	CHARGES	5
4	LAND REGISTRY	7
5	NOTICES OF ASSIGNMENTS	8
6	REPRESENTATIONS AND WARRANTIES	8
7	UNDERTAKINGS	9
8	FURTHER ASSURANCE	11
9	CERTAIN POWERS OF THE SECURITY AGENT.....	12
10	APPOINTMENT AND POWERS OF RECEIVER	14
11	APPLICATION OF PROCEEDS AND PROTECTION OF PURCHASERS.....	19
12	INDEMNITIES; COSTS AND EXPENSES	20
13	POWER OF ATTORNEY	21
14	CONTINUING SECURITY AND OTHER MATTERS	22
15	RELEASE	23
16	SECURITY AGENT	24
17	SET-OFF	25
18	MISCELLANEOUS	26
19	NOTICES	28
20	TRANSFERS BY THE SECURITY AGENT OR THE CHARGOR.....	30
21	COUNTERPARTS	30
22	THIRD PARTIES	31

23	GOVERNING LAW	31
	Schedule 1 - The Real Properties	32
	Schedule 2.....	33
	Part A - Notice of Assignment of Agreements.....	33
	Part B - Form of Acknowledgement	35

THIS DEED is dated

9 MAY

2016 and made

BETWEEN:

- (1) **NOBLE DESSERTS HOLDING LIMITED** a company incorporated in England and Wales (Registered No. 07104090) whose registered office is at Cotswold Farm, Standlake, Witney, Oxfordshire, England, OX29 7RB (the "**Chargor**"); and
- (2) **COÖPERATIEVE RABOBANK U.A TRADING AS RABOBANK** as agent and trustee for itself and each of the other Secured Parties (as defined below) (the "**Security Agent**").

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise requires:

"**Agent**" has the meaning given to that expression in the Facility Agreement;

"**Ancillary Lender**" has the meaning given to that expression in the Facility Agreement;

"**Arrangers**" has the meaning given to that expression in the Facility Agreement;

"**Authority**" means any governmental body, agency, department or regulatory, self-regulatory or other authority including, without limitation, local and public authorities and statutory undertakings;

"**Charged Assets**" means all the undertaking, goodwill, property, assets and rights of the Chargor charged hereunder or any part of them;

"**Collateral Instruments**" means negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing Security;

"**Default Rate**" means the rate specified in clause 11.4 (*Default interest*) of the Facility Agreement;

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Agent;

"**Event of Default**" has the meaning given to that expression in the Facility Agreement;

"Facility Agreement" means the facilities agreement originally dated 4 May 2012 as amended from time to time including as amended and restated on 1 February 2016 between (among others) the parties to this Deed;

"Finance Document" has the meaning given to that expression in the Facility Agreement;

"Finance Party" has the meaning given to that expression in the Facility Agreement;

"Hedge Counterparty" has the meaning give to that expression in the Facility Agreement;

"Indemnified Party" has the meaning set out in clause 12.3 (*Indemnity from Charged Assets*);

"Insurances" means all present and future contracts or policies of insurance relating to the Real Property in which the Chargor from time to time has an interest and the benefit of all claims, rights to payment, returns of premium and all other rights in respect of any of them;

"Intercreditor Agreement" means the intercreditor agreement dated 1 February 2016 and made between, among others, Noble Foods Group Limited, Noble Foods Group Guernsey Limited, the Chargor (as defined in this agreement), the Original Debtors (as defined in the Intercreditor Agreement), the Security Agent as senior security agent, the Agent as senior agent, the Lenders as senior lenders, the Equity Investors (as defined in the Intercreditor Agreement) and the Intra-Group Lenders (as defined in the Intercreditor Agreement);

"Lender" has the meaning given to that expression in the Facility Agreement;

"Occupational Leases" means all leasehold interests and other occupational rights whatsoever (including, without limitation, all licences and agreements for leases) in existence from time to time relating to the whole or any part of the Charged Assets (and **"Occupational Lease"** shall be construed accordingly);

"Overdraft Lender" has the meaning given to that expression in the Facility Agreement;

"Party" means a party to this Deed;

"Permitted Security" has the meaning given to that expression in the Facility Agreement;

"Properties" means the Real Property and the assets of the Chargor described in clause 3.3(a) (*Properties*) (and **"Property"** shall be construed accordingly);

"Real Property" means each of the properties of the Chargor listed in Schedule 1 including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future;
- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (c) easements, access-rights, rights of way, wayleaves and rights attaching to it;

"Receiver" means any one or more receivers and/or managers or administrative receivers appointed by the Security Agent pursuant to this Deed in respect of the Chargor or over all or any of the Charged Assets;

"Secured Obligations" means all present and future obligations and liabilities of the Chargor (whether actual or contingent and whether owed jointly or severally or in any other capacity whatever) which are, or are expressed to be, or may become, due, owing or payable to the Security Agent (whether for its own account or as agent or trustee for the Secured Parties) or to any of the other Secured Parties under or in connection with any of the Finance Documents, together with all costs, charges, losses, liabilities, expenses and other sums and any taxes thereon incurred by the Security Agent or any other Secured Party which are, or are expressed to be, or may become due, owing or payable by the Chargor under or in connection with any Finance Documents;

"Secured Parties" means the Security Agent, any Receiver or Delegate and each of the Agent, the Arrangers and the Senior Creditors (as defined in the Intercreditor Agreement) from time to time but, in the case of the Agent, each Arranger or Senior Creditor (as defined in the Intercreditor Agreement), only if it is a party to the Intercreditor Agreement or (in the case of the Agent or a Senior Creditor (as defined in the Intercreditor Agreement)) has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to clause 18.10 (*Creditor/Agent Accession Undertaking*) of the Intercreditor Agreement; and

"Security" means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest, title retention or other encumbrance of any kind securing, or any right conferring a priority of payment in respect of, any obligation of any person other than a Permitted Security.

1.2 Definitions in Finance Documents

Unless a contrary indication appears, a term defined in any Finance Document or in any notice given under or in connection with any Finance Document has the same meaning when used in this Deed.

1.3 Successors and assigns

A reference to any Party shall be construed as including its subsequent successors in title, permitted transferees and any permitted assigns, in each case in accordance with their respective interests.

1.4 Headings

Clause headings and the contents page are inserted for convenience of reference only and shall be ignored in the interpretation of this Deed.

1.5 Construction of certain terms

In this Deed, unless the context otherwise requires:

- (a) references to clauses and schedules are to be construed as references to the clauses of and schedules to this Deed unless expressly stated otherwise;
- (b) reference to (or to any specified provision of) this Deed, the Facility Agreement or any other document shall be construed as references to this Deed, the Facility Agreement that provision or that document as in force for the time being and as amended, varied, supplemented or restated in accordance with the terms thereof or, as the case may be, with the agreement of the relevant parties;
- (c) words importing the plural shall include the singular and vice versa;
- (d) references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons, trust, partnership and limited liability partnership or any state or any agency thereof;
- (e) an Event of Default is "**continuing**" if it has not been expressly waived in writing by the Security Agent; and
- (f) references to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time and all regulations made thereunder from time to time.

1.6 Effect as a deed

This Deed is intended to take effect as a deed notwithstanding that the Security Agent may have executed it under hand only.

2 COVENANT TO PAY

2.1 Covenant to pay

The Chargor will pay or otherwise discharge all Secured Obligations from time to time, at the times at which, in the manner in which, and in the currencies in which they are expressed to be due and payable or due for discharge under the Finance Documents.

2.2 Certain liabilities

The Secured Obligations shall, without limitation, include all liabilities arising under this Deed and the Finance Documents, interest (both before and after judgment) from the date such liabilities are due, owing or incurred up to the date of payment at such rates and upon such terms as specified in the Facility Agreement and all legal, administrative and other costs, charges and expenses on a full and unqualified indemnity basis which may be incurred by the Secured Parties in relation to any such moneys, obligations or liabilities or the release of all or any of the Charged Assets or the enforcement of the security hereby created or generally in respect of the Chargor or otherwise incurred in dealing with any matter in relation to this Deed.

2.3 Interest

The Chargor shall pay interest at the Default Rate on unpaid sums (whether before or after any judgment) in accordance with the terms of clause 11.4 (*Default interest*) of the Facility Agreement.

3 CHARGES

The Chargor with full title guarantee hereby charges to the Security Agent (for the benefit of and as trustee for itself and each of the other Secured Parties), as a continuing security for the payment and discharge of the Secured Obligations, the following assets from time to time owned by it or in which it may from time to time have an interest (beneficial or otherwise and the proceeds of sale or realisation thereof):

3.1 Mortgage

By way of first legal mortgage the Real Property.

3.2 Assignment

- (a) By way of absolute assignment the Insurances and all monies from time to time payable to it under or pursuant to the Insurance including, without limitation, the refund of any premiums.

- (b) By way of absolute assignment, the benefit of all guarantees, indemnities, rent deposits, agreements (including without limitation Occupational Leases), contracts, undertakings and warranties relating to the Real Property.

3.3 Fixed Charge

To the extent they are not the subject of a mortgage pursuant to clause 3.1 (*Mortgage*) by way of first fixed charge:

- (a) Properties

The Real Property and all liens, charges, options, agreements, rights and interests in or over land or the proceeds of sale of land and all buildings, fixtures (including trade and tenant's fixtures) and fixed plant and machinery from time to time on such Real Property together with all rights, easements and privileges appurtenant to, or benefiting, the same including, without limitation, all options, agreements, liens, mortgages and charges in relation thereto and the proceeds of sale thereof.

- (b) Plant and machinery

- (i) fixtures;
- (ii) fittings;
- (iii) plant;
- (iv) machinery;
- (v) vehicles;
- (vi) tools;
- (vii) computer equipment;
- (viii) office equipment; and
- (ix) other equipment

in respect of the Real Property and the benefit of all contracts and warranties relating to the same.

- (c) Agreements

The benefit of all sale contracts, each Occupational Lease, any managing agent's agreements, all guarantees, indemnities, rent deposits, agreements, contracts, undertakings and warranties in relation to the Real Property.

(d) Receivables

All rental income, Disposal Proceeds and all other amounts owing to it in respect of the Real Property and all claims, rights and choses in action both present and future of the Chargor or in which the Chargor is legally, beneficially or otherwise interested.

3.4 Assignment provisions

In respect of the Charged Assets which are assigned to the Security Agent under clause 3.2 (*Assignment*):

- (a) they are assigned absolutely but subject to reassignment upon the Secured Obligations being paid or discharged in full and there being no future or contingent debt which may arise, whereupon the Security Agent shall, at the request and cost of the Chargor, reassign the Charged Assets to the Chargor; and
- (b) in respect of any Insurances assigned, neither the Security Agent nor any Secured Party shall have responsibility for the performance of the obligations of the Chargor thereunder, and the Chargor shall continue to observe and perform its obligations under the Insurances.

3.5 Further advances

The Lenders are under an obligation, contained in, and subject to the terms of the Facility Agreement to make further advances to the Chargor and this security has been made for securing such further advances. The Lenders hereby apply to the Chief Land Registrar in substantially the following terms:

"The applicant confirms that, under the provisions of the charge, the Lenders are under an obligation to make further advances and applies to the registrar for a note to be entered in the register to that effect."

4 LAND REGISTRY

The Chargor hereby consents to the registration of the following restriction against the registered titles of the Real Properties at the Land Registry at the date of this Deed:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Coöperatieve Rabobank U.A. (trading as Rabobank), referred to in the charges register or by their conveyancer".

5 NOTICES OF ASSIGNMENTS

- (a) Where there is a Default which is continuing, within five Business Days of request by the Security Agent, the Chargor shall give notice in the form specified in Part A (*Notice of Assignment of Agreements*) of Schedule 2 to the counterparties in respect of the Charged Assets charged by way of absolute assignment pursuant to clause 3.2(b).
- (b) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part B (*Form of Acknowledgement*) of Schedule 2.
- (c) For the avoidance of doubt, the Chargor shall not be required to give notice to the counterparties in respect of the Charged Assets charged by way of absolute assignment pursuant to clause 3.2(b) unless and until a Default has occurred and is continuing and it has received a request from the Security Agent in accordance with paragraph (a) of this clause 5.

6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and warranties

In addition to the representations and warranties contained in clause 21 (*Representations*) of the Facility Agreement, which are deemed to be repeated here, the Chargor represents and warrants to the Security Agent for itself and for the benefit of each of the other Secured Parties, on the date hereof and on each date referred to in clause 21.36 (*Times when representations made*) of the Facility Agreement:

(a) Security valid

This Deed and each other Finance Document which purports to create any Security and all Security expressed to be granted or created pursuant to this Deed or any other Finance Document creates the Security it purports to create and is not liable to be set aside or avoided on its liquidation, administration or otherwise and such Security has the priority and ranking they are expressed to have.

(b) No existing security

That no Security exists on or over the Charged Assets except for Permitted Security and that the Property is held free from any Occupational Leases, other than those disclosed to the Security Agent.

7 UNDERTAKINGS

7.1 Obligations

In addition to the undertakings contained in clause 24 (*General undertakings*) of the Facility Agreement, which are deemed to be repeated here, the Chargor hereby undertakes with the Security Agent as trustee for itself and for the benefit of each of the other Secured Parties that during the continuance of this security, the Chargor will:

(a) Negative covenants

Not, other than as expressly permitted under the Facility Agreement:

- (i) create or permit to subsist any Security over any of the Charged Assets or any of its other assets;
- (ii) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, transfer, assign, lease, licence or otherwise dispose of any interest in any of the Charged Assets or any other asset;
- (iii) sell, transfer or otherwise dispose of any of its receivables on recourse terms; or
- (iv) enter into any arrangement under which money or the benefit of a bank or other amount may be applied, set-off or made subject to a combination of accounts.

(b) Rental Income

Collect in a proper and efficient manner all rental income and pay into such account as the Security Agent may from time to time specify all monies which it may receive in respect of the rental income forthwith on receipt;

(c) Compliance with covenants etc.

Observe and perform all covenants, burdens, stipulations, requirements and obligations from time to time affecting the Charged Assets and/or the use, ownership, occupation, possession, operation, repair, maintenance or other enjoyment or exploitation of the Charged Assets whether imposed by statute, contract, lease, licence, grant or otherwise, carry out all registrations or renewals and generally do all other acts and things (including the taking of legal proceedings) necessary to maintain, defend or preserve its right, title and interest to and in the Charged Assets without infringement by any third party and not without the prior consent in writing of the Security Agent (such consent

not to be unreasonably withheld) enter into any onerous or restrictive obligations affecting any of the same or agree any rent review relating to any interest in any of the Properties.

(d) Compliance with leases

- (i) perform all the terms on its part contained in any lease or agreement for lease or leases comprised within the Charged Assets;
- (ii) not do or knowingly permit to be done any act as a result of which any lease or leases may become liable to forfeiture or irritancy or otherwise be determined; and
- (iii) duly and punctually perform and observe and indemnify the Security Agent for any breach of any covenants or stipulations (restrictive or otherwise) affecting the Charged Assets.

(e) Alterations

Not, without the prior written consent of the Security Agent, make any structural alterations or additions to or carry out any on or make any planning or similar application relating to the Real Property.

(f) Possession of Properties

Not without the prior consent in writing of the Security grant any lease, part with possession or share occupation of the whole or any part of any of the Real Property or confer any licence, right or interest to occupy or grant any licence or permission to assign, underlet or part with possession of the same or any part thereof or permit any person:

- (i) to be registered (jointly with the Chargor or otherwise) as proprietor under the Land Registration Acts of any of the Real Property nor create or permit to arise any overriding interest affecting the same within the definition in those Acts; or
- (ii) to become entitled to any right, easement, covenant, interest or other title encumbrance which might adversely affect the value or marketability of the Real Property.

7.2 No limitation

None of the undertakings in this clause 7 shall be construed as limiting any powers exercisable by any Receiver appointed by the Security Agent under this Deed.

7.3 Power to remedy

If the Chargor at any time defaults in complying with any of its obligations contained in this Deed, the Security Agent shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Security Agent and its employees and agents by way of security to do all such things (including, without limitation, entering the Chargor's property) necessary or desirable in connection therewith. Any monies so expended by the Security Agent shall be repayable by the Chargor to the Security Agent on demand together with interest at the Default Rate from the date of payment by the Security Agent until such repayment, both before and after judgment. No exercise by the Security Agent of its powers under this clause 7.3 shall make it liable to account as a mortgagee in possession.

8 FURTHER ASSURANCE

8.1 Further assurance

Subject to clause 5, the Chargor shall if and when required by the Security Agent, at its own cost, promptly execute and deliver such further Security and assurances in favour of the Security Agent and do all such acts and things (including giving any notices and taking such steps) as the Security Agent shall from time to time require (with any documents being in such form as the Security Agent shall require) over or in relation to all or any of the Charged Assets to secure the Secured Obligations or to perfect or protect the security intended to be created by this Deed over the Charged Assets or any part thereof or to facilitate the realisation of the same.

8.2 Certain documentary requirements

Such further Security and assurances shall be prepared by or on behalf of the Security Agent at the expense of the Chargor and shall contain:

- (a) an immediate power of sale without notice;
- (b) a clause excluding section 93 Law of Property Act 1925 and the restrictions contained in section 103 Law of Property Act 1925; and
- (c) such other clauses for the benefit of the Security Agent as the Security Agent may require.

8.3 Specific security documents required

Without prejudice to the generality of the provisions of clauses 8.1 (*Further Assurance*) and 8.2 (*Certain documentary requirements*), the Chargor shall execute as and when so required by the Security Agent a legal mortgage or legal charge (as specified by the

Security Agent) over any freehold, leasehold and heritable properties acquired by it after the date of this Deed (including all or any of the Properties as and when the same are conveyed, transferred, or let to it) and over any and all fixtures, trade fixtures and fixed plant and machinery at any time and from time to time situate thereon.

9 CERTAIN POWERS OF THE SECURITY AGENT

9.1 Powers on enforcement

At any time on or after an Event of Default that is continuing or, at the Security Agent's discretion, if requested by the Chargor, the Security Agent may, without further notice, without the restrictions contained in section 103 Law of Property Act 1925 and whether or not a Receiver shall have been appointed, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Deed and all the powers and discretions conferred by this Deed on a Receiver either expressly or by reference. The Security Agent in exercising its statutory power of sale, and any Receiver in exercising his powers hereunder, shall be at liberty to sell at such price and on such terms and conditions as it or he in its or his sole discretion thinks fit and shall not be under any duty or obligation to obtain the best or any particular price. In the event of any conflict between the powers contained in the Law of Property Act 1925 and those conferred by this Deed, the terms of this Deed shall prevail.

9.2 Redemption of Permitted Security

At any time on or after an Event of Default that is continuing, or if the holders of any Permitted Security shall take any step to enforce them or demand the money thereby secured, the Security Agent may pay off all or any of the Permitted Security and take a transfer of the benefit of them or redeem the same, and the money so expended by the Security Agent and all costs of and incidental to the transaction incurred by the Security Agent shall be repayable by the Chargor to the Security Agent on demand, shall constitute part of the Secured Obligations and shall bear interest at the Default Rate from the date of payment by the Security Agent.

9.3 Subsequent Security

If the Security Agent receives or has notice (actual or constructive) of any subsequent Security affecting the Charged Assets or any part of it or if the continuing nature of this Deed is determined for any reason, the Security Agent may open a new account for the Chargor. If it does not do so then, unless the Security Agent gives express written notice to the contrary to the Chargor for the purposes of this Deed, the Security Agent shall nevertheless be treated as if it had opened a new account at the time when it received or had such notice and as from that time all payments made by or on behalf of the Chargor to the Security Agent shall be credited or be treated as having been

credited to the new account and shall not operate to reduce the amount due from the Chargor to the Security Agent at the time when it received such notice.

9.4 Financial Collateral

To the extent that the Charged Assets constitute "Financial Collateral" and this Deed and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right, to appropriate all or any part of such Financial Collateral in or towards the satisfaction of the Secured Obligations. For this purpose, the value of such Financial Collateral so appropriated shall be such amount as the Security Agent so determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

9.5 Settlement of accounts

Any sale or other disposition by the Security Agent or by a Receiver may be made either subject to or discharged from any prior charge or upon such terms as to indemnity as the Security Agent or such Receiver may think fit. The Security Agent or the Receiver may settle and pay the accounts of any person in whom any prior charge may from time to time be vested and any accounts so settled and paid shall as between the Security Agent, the Receiver and the Chargor be deemed to be properly settled and paid and shall be binding on the Chargor accordingly. The money so expended by the Security Agent or the Receiver shall be repayable by the Chargor to the Security Agent or the Receiver on demand, shall constitute part of the Secured Obligations and shall bear interest at the Default Rate from the date of payment by the Security Agent or the Receiver.

9.6 Assignment of rents

After an Event of Default that is continuing, the right to recover all rents reserved by any Occupational Lease shall automatically be assigned to and vest in the Security Agent.

9.7 Statutory power of leasing

The Security Agent shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Security Agent shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 Law of Property Act 1925.

9.8 Suspense accounts

The Security Agent (or any Receiver) may pay the proceeds of any recoveries effected by it or him into an interest-bearing suspense account and retain it for so long as it (or he) may determine. The Security Agent may (subject to the payment of any claims having priority to this security) withdraw amounts standing to the credit of such suspense account for application as follows:

- (a) paying all costs, charges and expenses incurred and payments made by the Security Agent (or the Receiver) in the course of such enforcement;
- (b) paying remuneration to the Receiver as and when the same becomes due and payable; and
- (c) paying amounts due and payable in respect of the Secured Obligations including without limitation in accordance with the terms of the Intercreditor Agreement.

10 APPOINTMENT AND POWERS OF RECEIVER

10.1 Appointment

At any time on or after an Event of Default that is continuing, or, at the Security Agent's discretion, if requested by the Chargor, the Security Agent may by instrument in writing executed as a deed or under the hand of any director or other duly authorised officer appoint a Receiver of the Charged Assets or any part thereof. Where more than one Receiver is appointed, each joint Receiver shall have power to act severally, independently of any other joint Receivers, except to the extent that the Security Agent may specify to the contrary in the appointment. The Security Agent may (subject, where relevant, to section 45 Insolvency Act 1986) remove any Receiver so appointed and appoint another in his place.

10.2 Receiver as agent

A Receiver shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration.

10.3 Powers of Receiver

A Receiver shall have all the powers conferred from time to time on receivers and administrative receivers by statute and power on behalf, and at the expense, of the Chargor (notwithstanding liquidation of the Chargor) to do or omit to do anything which the Chargor could do or omit to do in relation to the Charged Assets or any part thereof. In particular (but without limitation), a Receiver shall have power to do all or any of the following acts and things:

(a) Take possession

Take possession of, collect and get in all or any of the Charged Assets in such manner as he may think fit;

(b) Manage the Charged Assets

Manage, develop, alter, improve, build, reconstruct or reinstate and replace the Charged Assets or any part of it or concur in so doing; to buy, lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage; to acquire, renew, extend, grant, vary or otherwise deal with easements, rights, privileges and licences over or for the benefit of the Charged Assets;

(c) Carry on business

Carry on, manage, develop, reconstruct, amalgamate or diversify the business of the Chargor or any part thereof or concur in so doing, lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage;

(d) Borrow money

Raise or borrow any money from or incur any other liability to the Security Agent or others on such terms with or without security as he may think fit and so that any such security may with the consent of the Security Agent be or include a charge on the whole or any part of the Charged Assets ranking in priority to this security or otherwise;

(e) Dispose of assets

Without the restrictions imposed by section 103 Law of Property Act 1925 or the need to observe any of the provisions of sections 99 and 100 of such Act, sell by public auction or private contract or otherwise, let, surrender or accept surrenders, grant licences or otherwise dispose of or deal with all or any of the Charged Assets or concur in so doing in such manner for such consideration and generally on such terms and conditions as he may think fit with full power to convey, let, surrender, accept surrenders or otherwise transfer or deal with such Charged Assets in the name and on behalf of the Chargor or otherwise and so that covenants and contractual obligations may be granted and assumed in the name of and so as to bind the Chargor (or other the estate owner) if he shall consider it necessary or expedient so to do; any such sale, lease or disposition may be for cash, deeds or other obligations, shares, stock, securities or other valuable consideration and be payable immediately or by

instalments spread over such period as he shall think fit and so that any consideration received or receivable shall ipso facto forthwith be and become charged with the payment of all the Secured Obligations; plant, machinery and other fixtures may be severed and sold separately from the premises containing them and the Receiver may apportion any rent and the performance of any obligations affecting the premises sold without the consent of the Chargor. Any contract for any such sale or other disposal by the Receiver or the Security Agent may contain conditions excluding or restricting the personal liability of the Receiver or the Security Agent;

(f) Form subsidiaries

Promote the formation of companies with a view to the same becoming a subsidiary of the Chargor and purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Charged Assets or otherwise, arrange for such companies to trade or cease to trade or to purchase, lease, license or otherwise acquire all or any of the Charged Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit;

(g) Compromises and contracts

Make any arrangement or compromise or enter into or cancel any contracts which he shall think expedient;

(h) Repair and maintain assets

Make and effect such repairs, renewals and improvements to the Charged Assets or any part thereof as he may think fit and maintain, renew, take out or increase insurances;

(i) Building works

Commence and/or complete any building operations on any part of the Properties and apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licences with respect to the Charged Assets as he may in his discretion think fit;

(j) Compensation

Negotiate for compensation with any Authority which may intend to acquire or be in the process of acquiring the Charged Assets or any part of it and make objections to any order for the acquisition of the Charged Assets or any part of

it, and the Receiver may request the Chargor to do so at any enquiry held to consider such objections or which is otherwise relevant to such acquisition;

(k) Appoint employees

Appoint managers, agents, officers and employees for any of the purposes referred to in this clause 10 or to guard or protect the Charged Assets at such salaries and commissions and for such periods and on such terms as he may determine and may dismiss the same;

(l) Exercise statutory leasehold powers

Without any further consent by or notice to the Chargor, exercise for and on behalf of the Chargor all the powers and provisions conferred on a landlord or a tenant by the Landlord and Tenant Acts, the Rent Acts, the Housing Acts or the Agricultural Holdings Act or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Properties but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;

(m) Tenancies

Apply for and negotiate the terms of any renewed tenancy whether pursuant to the Landlord and Tenant Act 1954 or otherwise;

(n) Occupational Leases

Make allowances and arrangements with any lessee or any tenant in respect of the rents receivable pursuant to an Occupational Lease;

(o) Rent review

Operate and agree any rent review in respect of any lease or underlease of the Charged Assets or any Occupational Leases and the amount of any interim rent payable pursuant to section 24(A) of the Landlord and Tenant Act 1954;

(p) Legal proceedings

Institute, continue, enforce, defend, settle or discontinue any actions, suits or proceedings in relation to the Charged Assets or any part thereof or submit to arbitration as he may think fit;

(q) Execute documents

Sign any document, execute any deed and do all such other acts and things as may be considered by him to be incidental or conducive to any of the matters or powers aforesaid or to the realisation of the security created by or pursuant to this Deed and to use the name of the Chargor for all the purposes aforesaid;

(r) Approvals

Apply for and obtain any approval, permission, consent and license, enter into and perform contracts and arrangements, purchase materials and incur any type of obligation;

(s) Purchase

Purchase any property or other assets if the Receiver considers it would be conducive to the realisation of the Security Agent's security or any part of it;

(t) Insurances

Maintain, renew, take out or increase Insurances (including indemnity insurance);

(u) Insolvency Act powers

Do all the acts and things described in schedule 1 to the Insolvency Act 1986 as if the words "he" and "him" referred to the Receiver and "company" referred to the Chargor;

(v) Other powers

Do all such acts and things as may from time to time be considered by the Receiver to be incidental or conducive to any of the matters or powers aforesaid or otherwise incidental or conducive to the realisation of the Security Agent's security or the exercise of his functions as receiver; and

(w) Security Agent powers

Do anything the Security Agent has power to do under this Deed.

10.4 Remuneration

The Security Agent may from time to time determine the remuneration of any Receiver and in default of such determination, a Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

The maximum rate set out in section 109(6) Law of Property Act 1925 shall not apply and that section shall be varied accordingly.

10.5 No liability

Neither the Security Agent nor any Receiver shall be liable for any involuntary losses that may occur in exercise of the rights, liberties and powers contained in this Deed or be liable to account as mortgagee in possession save in respect of fraud, negligence and/or wilful deceit.

11 APPLICATION OF PROCEEDS AND PROTECTION OF PURCHASERS

11.1 Application of proceeds

All monies received by the Security Agent or by any Receiver shall be applied, allocated or appropriated in the order and manner specified by the Intercreditor Agreement notwithstanding any purported appropriation by the Chargor.

11.2 Insurance proceeds

On or after an Event of Default that is continuing, all monies receivable by virtue of any of the Insurances shall be paid to the Security Agent and the Security Agent is authorised to give a good discharge to the insurers in respect of such monies (or if not paid by the insurers directly to the Security Agent shall be held on trust for the Security Agent) and shall be retained by the Security Agent or at the option of the Security Agent be applied in replacing, restoring or reinstating the property or assets destroyed, damaged or lost (any deficiency being made good by the Chargor) or (except where the Chargor is obligated (as landlord or tenant) to lay out such insurance monies under the provisions of any lease of any of the Charged Assets) in reduction of the Secured Obligations.

11.3 Protection of purchasers

(a) Any person (including, without limitation, any purchaser, mortgagor or mortgagee) (in this clause a "**purchaser**") dealing with the Security Agent may assume without inquiry that:

- (i) some part of the Secured Obligations has become due;
- (ii) a demand for such Secured Obligations has been duly made; and
- (iii) such Secured Obligations have become due within the meaning of section 101 of the Law of Property Act 1925.

(b) No purchaser dealing with the Receiver or the Security Agent is to be concerned to enquire whether any power exercised or purported to be

exercised by the Receiver or the Security Agent has become exercisable, or as to the propriety or regularity of any sale by, or other dealing with, the Receiver or the Security Agent. Any such sale or dealing is deemed to be within the powers conferred by this Deed and to be valid and effective accordingly. All the protection to purchasers contained in section 104 and section 107 of the Law of Property Act 1925 and section 42(3) of the Insolvency Act 1986 apply to any purchaser.

12 INDEMNITIES; COSTS AND EXPENSES

12.1 Enforcement costs

The Chargor hereby undertakes with the Security Agent to pay on demand all costs, charges and expenses incurred by the Security Agent, or by any Receiver in or about the enforcement, preservation or attempted preservation of any of the security created by or pursuant to this Deed or any of the Charged Assets on a full indemnity basis, together with interest at the Default Rate from the date on which such costs, charges or expenses are so incurred until the date of payment by the Chargor (both before and after judgment).

12.2 No liability as mortgagee in possession

Neither the Security Agent, nor any Receiver shall be liable to account as mortgagee or heritable creditor in possession in respect of all or any of the Charged Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee or heritable creditor in possession may be liable as such.

12.3 Indemnity from Charged Assets

The Security Agent, and any Receiver, attorney, agent or other person appointed by the Security Agent under this Deed and the Security Agent's officers and employees (each an "**Indemnified Party**") shall be entitled to be indemnified out of the Charged Assets in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, delict or otherwise and whether arising at common law, in equity or by statute which may be incurred by or made against any of them (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed; or
- (b) any breach by the Chargor of any of its obligations under this Deed;

and the Chargor shall indemnify the Security Agent and any Receiver(s) against any such matters.

12.4 Value Added Tax

If any payment made by or on behalf of the Security Agent hereunder includes an amount in respect of Value Added Tax or any payment due to the Security Agent hereunder shall be reimbursement of any expenditure by or on behalf of the Security Agent which includes an amount in respect of Value Added Tax, then such amount shall be payable by the Chargor to the Security Agent on demand with interest from the date of such demand computed and payable as provided in clauses 2.2 (*Certain liabilities*) and 2.3 (*Interest*) and pending payment, shall be secured by this Deed.

12.5 Challenge of Deed

The Chargor shall pay to the Security Agent (on a full and unqualified indemnity basis) all costs incurred or suffered by the Security Agent and any Receiver appointed by the Security Agent shall be entitled to recover as a receivership expense all costs incurred or suffered by him in connection with any application under Part III of the Insolvency Act 1986 and in defending proceedings brought by any third party impugning the Security Agent's title to this security or the enforcement or exercise of the rights or remedies of the Security Agent or of any Receiver and all such costs shall bear interest from the date such costs were incurred, suffered, computed or payable pursuant to clauses 2.2 (*Certain liabilities*) and 2.3 (*Interest*) and pending payment shall be secured hereby.

13 POWER OF ATTORNEY

13.1 Power of attorney

The Chargor, by way of security, hereby irrevocably appoints each of the Security Agent and any Receiver severally (and each Receiver severally if there is more than one) to be its attorney in its name and on its behalf:

- (a) to execute and complete any documents or instruments which the Security Agent or such Receiver may require for perfecting the title of the Security Agent to the Charged Assets or for vesting the same in the Security Agent, its nominees or any purchaser;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 8 (*Further Assurance*); and
- (c) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the

Security Agent or a Receiver under this Deed or which may be deemed expedient by the Security Agent or a Receiver in connection with any disposition, realisation or getting in by the Security Agent or such Receiver of the Charged Assets or any part thereof or in connection with any other exercise of any power under this Deed.

13.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney as is mentioned in clause 13.1 (*Power of attorney*) shall lawfully do or purport to do in the exercise or purported exercise of his powers under such clause.

14 CONTINUING SECURITY AND OTHER MATTERS

14.1 Continuing security

This Deed and the obligations of the Chargor under this Deed shall:

- (a) secure the ultimate balance from time to time owing to the Security Agent by the Chargor and shall be a continuing security notwithstanding any settlement of account or other matter whatsoever;
- (b) be in addition to, and not prejudice or affect, any present or future Collateral Instrument, Security, right or remedy held by or available to the Security Agent;
- (c) not merge with or be in any way prejudiced or affected by the existence of any such Collateral Instruments, Security, rights or remedies or by the same being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Security Agent dealing with, exchanging, releasing, varying or failing to perfect or enforce any of the same or giving time for payment or indulgence or compounding with any other person liable;
- (d) not be discharged or affected by the incapacity or any change in the name of the Chargor or any other person liable;
- (e) not be discharged or affected by the Security Agent granting any time, indulgence or concession to, or compounding with, discharging, releasing or varying the liability of the Chargor or any other person liable or renewing, determining, varying or increasing any accommodation, facility or transaction or otherwise dealing with the same in any manner whatsoever or concurring in, accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person liable;
- (f) not be discharged or affected by any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor

instead of a surety or by anything done or omitted which but for this provision might operate to exonerate the Chargor;

- (g) not be discharged or affected by any failure of, or defect in, any agreement given by or on behalf of the Chargor in respect of any Secured Obligations nor by any legal limitation in any matter in respect of any Secured Obligations or by any other fact or circumstances (whether known or not to the Chargor or the Security Agent) as a result of which any Secured Obligations may be rendered illegal, void or unenforceable by the Security Agent; and
- (h) remain binding on the Chargor notwithstanding any amalgamation, reconstruction, reorganisation, merger, sale or transfer by or involving the Security Agent or assets of the Security Agent and for this purpose this Deed and all rights conferred on the Security Agent under it may be assigned or transferred by the Security Agent accordingly.

14.2 Collateral Instruments

The Security Agent shall not be obliged to resort to any Collateral Instrument or other means of payment now or hereafter held by or available to it before enforcing this Deed and no action taken or omitted by the Security Agent in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of the Chargor nor shall the Security Agent be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such Collateral Instrument or other means of payment.

15 RELEASE

- (a) If the Security Agent is satisfied that all the Secured Obligations have been unconditionally and irrevocably paid or discharged in full and none of the Secured Parties has any further liability or obligation under any Finance Document, the Security Agent will, at the request and cost of the Chargor, discharge this Deed.
- (b) Any release, discharge or settlement between the Chargor and the Security Agent shall be conditional upon no security, disposition or payment to the Security Agent by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled, the Security Agent shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

16 SECURITY AGENT

16.1 Declaration of Trust

The Security Agent hereby declares itself trustee of the covenants, mortgages and charges of the Chargor contained in this Deed and the security and other rights, titles and interests constituted by this Deed and of the Charged Assets and all other moneys, property and assets paid to the Security Agent or held by the Security Agent or received or recovered by the Security Agent pursuant to or in connection with this Deed with effect from the date of this Deed to hold the same on trust for the Secured Parties and itself and to apply the same in accordance with the provisions of clause 11.1 (*Application of Proceeds*).

16.2 Appointment

Each Secured Party has appointed the Security Agent to act as its trustee in connection with this Deed.

16.3 Deemed entitlement

The Security Agent may deem and treat each Secured Party as the person entitled to the benefit of this Deed in respect of the proportion of the Secured Obligations which, in accordance with the information provided to the Security Agent pursuant to clause 16.4 (*Directions for realisation*), are owing or incurred by the Chargor to such Secured Party for all purposes of this Deed unless and until a written notice of assignment or transfer of all or part of such Secured Party's share shall have been filed with the Security Agent.

16.4 Directions for realisation

Each Secured Party shall provide the Security Agent with all necessary directions in writing so as to enable the Security Agent to apply the proceeds of realisation of the security as contemplated by this Deed and such other information as it may reasonably require for the purposes of carrying out its duties and obligations under this Deed.

16.5 Deposit of documents

The Security Agent shall be entitled to place all deeds, certificates and other documents relating to the Charged Assets deposited with it under or pursuant to this Deed in any safe deposit, safe or receptacle selected by the Security Agent or with any solicitor or firm of solicitors and may make any such arrangements as it thinks fit for allowing the Chargor or its solicitors or auditors access to or possession of such documents when necessary or convenient and the Security Agent shall not be responsible for any loss incurred in connection with any such deposit, access or possession.

16.6 Security Agent's duty of care

Nothing in this Deed shall in any case where the Security Agent has failed to show the degree of care and diligence required of it as a trustee having regard to the provisions of this Deed exempt the Security Agent from or indemnify it against any liability for breach of trust or any liability which by virtue of any rule of law would otherwise attach to it in respect of any negligence, default, breach of duty or breach of trust of which it may be guilty in relation to its duties under this Deed.

16.7 Additional statutory rights

In addition to its rights under or by virtue of this Deed and the other Finance Documents, the Security Agent shall have all of the rights conferred on a trustee by the Trustee Act 1925, the Trustee Delegation Act 1999 and the Trustee Act 2000.

17 SET-OFF

17.1 Set-off

The Chargor hereby agrees that the Security Agent may (but shall not be obliged to) at any time and from time to time without notice:

- (a) set off any amounts owed by the Secured Parties to the Chargor in or towards satisfaction of the Secured Obligations (which shall be in addition to and without prejudice to such rights of set-off, combination, lien and other rights whatsoever conferred on the Security Agent or any Secured Party by law or under this Deed); and
- (b) transfer any sum or sums standing to the credit of any accounts of the Chargor with the Security Agent, of whatever nature and in whatever currency denominated, in or towards satisfaction of any sums due and payable from the Chargor to the Security Agent under this Deed or in or towards satisfaction of the Secured Obligations.

17.2 Additional rights

If the liability in respect of which the Security Agent or any Secured Party is exercising its rights of set-off is contingent, or not yet payable, it shall automatically be accelerated, and shall accordingly be due and payable, before and at the time of such set-off. If the sums standing to the credit of any account of the Chargor with the Security Agent or any Secured Party at any of their branches against which set-off is to be made are not due or matured or otherwise payable, they shall notwithstanding anything to the contrary contained in this Deed be deemed already to be so for the purposes of the set-off contemplated in clause 17.1 (*Set-off*) provided that the Security Agent or any

Secured Party shall not be obliged to exercise any right given to it by this clause 17 (*Set-off*).

17.3 Waiver

The Chargor hereby waives any right of set-off it may have from time to time in respect of the Secured Obligations.

18 MISCELLANEOUS

18.1 Remedies cumulative

No failure or delay on the part of the Security Agent to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy. Any waiver, consent, receipt, settlement or release given by the Security Agent in relation to this Deed should only be effective if given in writing and then only for the purpose for and upon the terms on which it is given.

18.2 Successors and assigns

Any appointment or removal of a Receiver under clause 10 (*Appointment and powers of Receiver*) and any consents under this Deed may be made or given in writing, signed or sealed by any successors or assigns of the Security Agent and accordingly the Chargor hereby irrevocably appoints each successor and assign of the Security Agent to be its attorney in the terms and for the purposes set out in clause 13 (*Power of attorney*).

18.3 Consolidation

Section 93 Law of Property Act 1925 shall not apply to the security created by this Deed or to any security given to the Security Agent pursuant to this Deed.

18.4 Reorganisation of the Security Agent

This Deed shall remain binding on the Chargor notwithstanding any change in the constitution of the Security Agent or its absorption in or amalgamation with or the acquisition of all or part of its undertaking by any other person or any reconstruction or reorganisation of any kind. The security granted by this Deed shall remain valid and effective in all respects in favour of any assignee, transferee or other successor in title of the Security Agent in the same manner as if such assignee, transferee or other successor in title had been named in this Deed as a party instead of or in addition to the Security Agent.

18.5 Unfettered discretion

Any liability or power which may be exercised or any determination which may be made under this Deed by the Security Agent may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

18.6 Provisions severable

- (a) Each of the provisions of this Deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.
- (b) If any invalid or unenforceable clause (or part of a clause) would not be invalid or unenforceable if its drafting or effect were modified in any way, the Chargor agrees that the Security Agent can require such clause to be modified so as to be valid and enforceable.

18.7 Preservation of rights

The Security Agent may, in its absolute discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not a party hereto or affecting or concerning any such person in respect of the Secured Obligations or in respect of any Security or any guarantee for the Secured Obligations, without in any such case prejudicing, affecting or impairing the security hereby constituted, or any of the rights, powers or remedies of the Security Agent or the exercise of the same, or the Secured Obligations or other liability of the Chargor to the Security Agent.

18.8 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of the Law of Property (Miscellaneous Provisions) Act 1989, any provisions of the Facility Agreement and any other relevant loan agreements relating to any disposition of an interest in land shall be deemed to be incorporated in this Deed.

18.9 Set-aside Payments

If the Security Agent reasonably considers that any amount paid by the Chargor to the Security Agent is capable of being avoided or set aside on the liquidation, receivership or administration of the Chargor or otherwise, then for the purpose of this Deed, such amount shall not be considered to have been paid.

18.10 Redeeming prior security

If any person takes (or threatens to take) any steps to enforce any security which ranks before or equal to any part of this security in relation to any of the Charged Assets, the

Security Agent or any Receiver in respect of such Charged Assets may at any time redeem any part of that security or procure its transfer to the Security Agent or such Receiver. The money so expended by the Security Agent or any Receiver and all costs of and incidental to the transaction incurred by the Security Agent or any Receiver shall be secured by this Deed and shall bear interest in accordance with clauses 2.2 (*Certain liabilities*) and 2.3 (*Interest*).

18.11 Settlement of accounts

The Security Agent and any Receiver may settle and pass the accounts of any person entitled to any security which ranks before or equal to any part of this security in relation to any part of the Charged Assets. Any accounts so settled and passed shall be conclusive and binding on the Chargor.

18.12 Security Document

This Deed is a Security Document for the purposes of the Facility Agreement.

18.13 Trust period

Any trusts declared in this Deed shall, pursuant to section (5) of the Perpetuities & Accumulations Act 2009, be for a period of 125 years.

19 NOTICES

19.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

19.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Chargor:

Address: Cotswold Farm, Standlake, Witney, Oxfordshire,
England, OX29 7RB

Attention: Jamie Roberts

(b) in the case of the Security Agent:

Address: Coöperatieve Rabobank U.A trading as Rabobank
Locationcode UCD-2082, P.O. Box 17100 HG Utrecht,
The Netherlands

Attention: Loans Agency

Fax No: +31 30 291 87 79,

or any substitute address, fax number or department or officer as the Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

19.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) 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 19.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in clause 19.2 (*Addresses*) above (or any substitute department or officer as the Security Agent shall specify for this purpose).

(c) All notices from or to the Chargor shall be sent through the Security Agent and any notice, communication or document made or delivered to the Security Agent from the Chargor will be deemed to have been made or delivered to each of the relevant Finance Parties.

19.4 Notification of address and fax number

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 19.2 (*Addresses*) or changing its own address or fax number, the Security Agent shall notify the other Parties.

19.5 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

20 TRANSFERS BY THE SECURITY AGENT OR THE CHARGOR

20.1 Restriction on the Chargor

The Chargor shall not assign or otherwise transfer any of its rights or obligations under this Deed or enter into any transaction or arrangement which will result in any of those rights or obligations passing to or being held in trust for or for the benefit of any other person.

20.2 The Security Agent

- (a) The Security Agent may at any time sell, assign, novate, securitise or otherwise transfer all or any part of its rights or obligations under this Deed (a "**Transfer**") to any person at any time (a "**Transferee**"). The Security Agent may, and the Chargor consents to, the disclosure by the Security Agent of any information and documentation concerning the Chargor to any prospective Transferee.
- (b) If there is a Transfer by the Security Agent the Chargor will be bound to the Transferee and the rights and obligations of the Chargor under this Deed will remain the same. The Transferee will have the same powers, rights, benefits and obligations of the Security Agent to the extent that they are sold, assigned, novated or otherwise transferred to the Transferee and the outgoing Security Agent will be released from its obligations to the Chargor to the extent that those obligations are assumed by the Transferee. The Chargor will enter into all documents necessary to give effect to any such Transfer.

21 COUNTERPARTS

This Deed may be signed in any number of counterparts and this has the same effect as if the signatures on counterparts were on a single copy of this Deed. Each counterpart, when executed and delivered, shall constitute an original of this Deed, but all the executed and delivered counterparts shall together constitute a single instrument.

22 THIRD PARTIES

For the purposes of section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the parties state that they do not intend any term of this Deed to be enforced by any third parties but any third party right which exists or is available independently of that Act is largely preserved.

23 GOVERNING LAW

23.1 English law

This Deed and any non-contractual obligations arising out of or in connection with this Deed shall be governed by and shall be construed in accordance with English law.

23.2 Submission to jurisdiction

The Chargor agrees for the benefit of the Secured Parties that any legal action or proceedings arising out of or in connection with this Deed against the Chargor or any of its assets may be brought in the English courts and irrevocably and unconditionally submits to the jurisdiction of such courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Security Agent to take proceedings against the Chargor in the courts of any other competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not. The Security Agent and the Chargor further agree that only the courts of England and not those of any other State shall have jurisdiction to determine any claim which the Chargor may have against any Secured Party arising out of or in connection with this Deed.

EXECUTED AS A DEED by the parties on the date noted at the head of this Deed.

Schedule 1

The Real Property

Address	Freehold/Leasehold	Title Number
the land and buildings known as the Gu Factory lying to the north of Dunmow Road, Bishops Stortford, CM23 5PA	Freehold	HD276879, HD375271, HD373019 and HD258904.

Schedule 2

Part A - Notice of Assignment of Agreements

To: [Name of counterparty to Agreement]

From: [Name of Chargor] (the "Company")

And [●] as **Security Agent**

Date: [●]

Dear Sirs

NOTICE OF ASSIGNMENT

We refer to the [describe agreement(s)] made between ourselves and you on [date] [for the [provision of [briefly describe agreement if necessary] (the "**Specified Agreement**")].

We hereby give you notice that pursuant to a Legal Charge dated [●], and made between, amongst others ourselves and [●] as Security Agent as agent and trustee for itself and the other Secured Parties (such debenture, as it may from time to time be amended, assigned, novated or supplemented, being below called the "**Legal Charge**"), we have assigned and charged and agreed to assign and charge, to the Security Agent as agent and trustee for itself and the other Secured Parties, all our rights, title, interest and benefit, present and future, under, to and in the Specified Agreement.

Words and expressions defined in the Legal Charge shall have the same meaning when used in this Notice.

Please note the following:

- 1 We shall at all times remain solely liable to you for the performance of all of the obligations assumed by us under or in respect of the Specified Agreement. Neither the Security Agent nor any of the Secured Parties will be under any liability or obligation of any kind in the event of any breach or failure by us to perform any obligation under the Specified Agreement;
- 2 We irrevocably and unconditionally instruct you to pay the full amount of any sum which you are (or would, but for the Legal Charge, be) at any time obliged to pay to us under or in respect of the Specified Agreement as follows:
 - 2.1 unless and until the Security Agent gives you notice that an Event of Default has occurred and is continuing, in accordance with our instructions; and

2.2 at any time after the Security Agent gives you notice that an Event of Default has occurred and is continuing, to such bank account or otherwise as the Security Agent may from time to time direct.

The Security Agent has agreed that, notwithstanding the Legal Charge, we remain entitled to exercise all of the rights, powers, discretions and remedies which would (but for the Legal Charge) be vested in us under and in respect of the Specified Agreement unless and except to the extent that the Security Agent gives you notice that an Event of Default has occurred and is continuing. Upon and after the giving of any such notice, the Security Agent shall be entitled to exercise and give directions regarding the exercise of all or any of those rights, powers, discretions and remedies (to the exclusion of us and to the exclusion of any directions given at any time by or on behalf of us) to the extent specified in the notice from the Security Agent.

We have irrevocably and unconditionally appointed the Security Agent to be our attorney to do (among other things) all things which we could do in relation to the Specified Agreement.

We confirm to you that:

- 3 in the event of any conflict between communications received from us and from the Security Agent, you shall treat the communication from the Security Agent as prevailing over the communication from us;
- 4 you are and will at all times be permitted to assume and rely upon the correctness of anything communicated to you by the Security Agent including without limitation statements as to the occurrence of an Event of Default; and none of the instructions, authorisations and confirmations in this notice can be revoked or varied in any way except with the Security Agent's specific prior consent.

This notice and any non-contractual obligations arising out of or in connection with this notice shall be governed by and construed in accordance with English law.

Please acknowledge receipt of this notice, and confirm your agreement to it, by executing and returning to the Security Agent an original copy of the Form of Acknowledgement attached to this notice of assignment.

Yours faithfully

For and on behalf of **[Company]**

For and on behalf of **[●]**

Security Agent for itself and the other Secured Parties

Part B - Form of Acknowledgement

[LETTERHEAD OF COUNTERPARTY TO SPECIFIED AGREEMENT]

To: [●] as Security Agent (as agent and trustee for Secured Parties)

Address: [●]

Attn: [●]

To: [Name of Chargor]

Address: [●]

Attn: [●]

Dear Sirs

We acknowledge receipt of the notice dated [●], a copy of which is attached to this letter (the "**Notice**"). Words and expressions defined in the Notice have the same meanings in this letter.

We confirm to you:

- 5 We consent to the assignment of the Specified Agreement and have noted, and will act in accordance with, the terms of that notice.
- 6 We have not previously received notice of any other assignment of the Specified Agreement and we are not aware of any interest of any third party in any of the Company's rights, benefits, interests or claims under or in respect of the Specified Agreement.
- 7 We irrevocably and unconditionally agree to pay the full amount of any sum which we are (or would, but for the Legal Charge, be) at any time obliged to pay under or in respect of the Specified Agreement:
 - 7.1 unless and until the Security Agent gives us notice that an Event of Default has occurred and is continuing, in accordance with the Company's instructions; and
 - 7.2 at any time after the Security Agent gives us notice that an Event of Default has occurred and is continuing, to such bank account or otherwise as the Security Agent may from time to time direct.
- 8 We will comply with the terms of the Notice.

We acknowledge that the Company shall at all times remain solely liable to us for the performance of all of the obligations assumed by it under the Specified Agreement, and that neither the Security Agent nor any other Secured Party is or will not be under any liability or

obligation whatever in the event of any breach or failure by the Company to perform its obligations under the Specified Agreement.

This letter and any non-contractual obligations arising out of or in connection with this letter shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of [***counterparty to Specified Agreement***]

CHARGOR

EXECUTED as a **DEED** by)

Noble Desserts Holding)

Limited

acting by:)

Director

Director/Secretary

or, in the presence of :

Witness

Name NICOLA BASSETT

Address

Occupation H.R. DIRECTOR

SECURITY AGENT

SIGNED by Coöperatieve Rabobank U.A trading as Rabobank

)

)

)

acting by)

Authorised Signatory

Authorised Signatory