



**Registration of a Charge**

Company name: **THE LAKES DISTILLERY COMPANY LIMITED**

Company number: **07769363**



X3NDQMUP

Received for Electronic Filing: **24/12/2014**

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**Details of Charge**

Date of creation: **19/12/2014**

Charge code: **0776 9363 0004**

Persons entitled: **TIER ONE CAPITAL LIMITED**

Brief description: **LEASEHOLD LAND AND BUILDINGS KNOWN AS LOW BARKHOUSE FARM, SETMURTHY, COCKERMOUTH, CUMBRIA CA139SJ REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER CU265222**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ALAN FLETCHER**



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

Company number: 7769363

Charge code: 0776 9363 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th December 2014 and created by THE LAKES DISTILLERY COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th December 2014 .

Given at Companies House, Cardiff on 29th December 2014

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Dated 19<sup>th</sup> November 2014

Legal Charge

THE LAKES DISTILLERY COMPANY LIMITED

in favour of

Tier One Capital Limited

(as security trustee)

## LEGAL CHARGE

Dated :

19<sup>th</sup> December

2014

made by **THE LAKES DISTILLERY COMPANY LIMITED** (registered number 07769363 ) whose registered office is at 1st Floor Offices Grandstand Garage, Kenton Road, Gosforth, Newcastle Upon Tyne NE3 4NB (the "Borrower");

in favour of **TIER ONE CAPITAL LIMITED** whose registered office is at Keel House, Garth Heads, Newcastle upon Tyne, NE1 2JE (the "Security Trustee") in its capacity as security trustee.

### 1. INTERPRETATION

1.1 In this deed the following expressions have the following meanings:-

"Charged Property"	the rights, assets and property charged or assigned by clause 4;
"Encumbrance"	any mortgage, charge (fixed or floating), pledge, lien, trust or assignment and any other arrangement or interest which has the effect of creating security or payment priority;
"Expenses"	all expenses (on a full indemnity basis) including legal and valuation fees, from time to time paid or incurred by the Security Trustee or any Receiver at any time in connection with the Charged Property or the Obligations or in taking, perfecting or enforcing this deed or in exercising any right or power under this deed or otherwise together with VAT upon such expenses where appropriate and Interest from the date they are incurred;
"Facility Agreements"	the facility agreements dated on or around the date hereof and made between the Borrower and the Finance Parties;
"Finance Parties"	has the meaning given to that term in the Facility Agreement including but not limited to the Security Trustee (in whatever capacity), Robert Thompson, Mark Haigh, Peter Weldon & Co Limited , Anne Beardsmore and any other party for whom the Security Trustee agrees to act for in a capacity as security trustee in relation to obligations owing to such person by the Borrower;
"Interest"	interest at the highest rate from time to time payable in respect of the Facility Agreement;
"Lease"	any letting, underlease or sub-lease and any tenancy, licence or other agreement for possession or occupation;
"Licence"	all licences, consents, certificates, registrations, permits or other similar matters required in connection with the Property;
"Obligations"	the monies, obligations and liabilities to the Finance Parties covenanted to be discharged or paid under clause 3;
"Planning Acts"	any legislation, directions, notices and bye-laws from time to time in force relating to town and country planning, building and construction;
"Property"	the property described in the Schedule;

"Receiver"	any person appointed as receiver, manager or receiver and manager; and
"Rental Sums"	all rents, profits, income, fees and other sums at any time payable by any lessees, underlessees, tenants or licensees of the Property to the Borrower except any sums payable in respect of services or insurance provided by the Borrower in relation to the Property;
"VAT"	value added tax or any other tax on added value or on turnover for the time being in force.

1.2 In this deed, each reference to:-

- 1.2.1 "Charged Property", "Obligations" or "Property" includes a reference to any part of them or it;
- 1.2.2 "Borrower" includes a reference to any person deriving title through the Borrower;
- 1.2.3 "Security Trustee and "Finance Party" includes a reference to any person who claims any title or interest through the Security Trustee and/or a Finance Party or any person to whom the business of the Security Trustee and/or a Finance Party is transferred;
- 1.2.4 a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it;
- 1.2.5 the singular includes the plural and vice versa;
- 1.2.6 any gender includes any other gender;
- 1.2.7 "including" and "includes" shall be construed without limitation;
- 1.2.8 a person includes a company, unincorporated association, partnership or trust; and
- 1.2.9 "dispose" includes charging, selling, leasing, assigning or transferring or agreeing to do any of the same, granting an option or similar right, creating a trust or other equitable interest or sharing or parting with possession or occupation.

**2. SECURITY TRUSTEE**

- 2.1 The Security Trustee is acting as security trustee for the Finance Parties.
- 2.2 Any monies recovered by the Security Trustee following enforcement of its rights pursuant to this deed shall be distributed to the Finance Parties in accordance with the Facility Agreement.

**3. SECURED LIABILITIES**

The Borrower covenants to:-

- 3.1 discharge on demand from time to time all money and liabilities to each of the Finance Parties of any kind and in any currency (whether present or future, actual or contingent and whether as principal or surety or incurred alone or jointly with another and whether the Finance Parties shall have been an original party to the relevant transaction or not);
- 3.2 pay to the Security Trustee on demand from time to time the Expenses; and

- 3.3 pay to the Security Trustee on demand from time to time Interest on the obligations and liabilities to the Finance Parties covenanted to be discharged and/or paid by the Borrower under clauses 3.1 and 3.2 from the date on which the Borrower has agreed to pay Interest on them or, if there is no such agreement, from the date on which they become due.

In the case of any of the Obligations which is not (but for this clause 3) due for discharge on demand, the Lender shall not make demand before the due date.

#### **4. SECURITY**

As a continuing security for the discharge and payment of the Obligations and with full title guarantee, the Borrower:-

- 4.1 charges to the Security Trustee by way of legal mortgage the Property;
- 4.2 assigns to the Security Trustee the benefit of all covenants, rights, claims and guarantees relating to the Property or the Property's construction, use or title and the benefits of all easements serving or relating to the Property, subject to reassignment on redemption;
- 4.3 assigns to the Security Trustee the proceeds of each policy of insurance now or in the future issued in relation to the Property subject to reassignment on redemption;
- 4.4 charges to the Security Trustee by way of fixed charge all buildings, structures and other items affixed to or forming part of the Property and all fixtures, fittings and equipment located at or on the Property now and in the future;
- 4.5 assigns to the Security Trustee the Rental Sums together with the benefit of all rights and remedies of the Borrower relating to them, subject to reassignment on redemption; and
- 4.6 charges to the Security Trustee by way of fixed charge all rights and interests in and claims under all policies of insurance and assurance now or in the future held, to be held or insuring to the Borrower's benefit and relating to the Property.

#### **5. RESTRICTIONS**

- 5.1 Save as permitted by the Facility Agreement the Borrower will not without the Lender's prior written consent:-
  - 5.1.1 create or permit to arise or continue any Encumbrance affecting the Charged Property or increase or extend any liability of the Borrower secured on any of the Charged Property;
  - 5.1.2 dispose of the Charged Property; or
  - 5.1.3 grant or accept a surrender of any Lease, or part with or share possession or occupation of the Property nor vary any Lease or reduce any sum payable under any such Lease or enter into any onerous or restrictive obligations affecting the Property.
- 5.2 The Borrower applies to the Chief Land Registrar to enter a restriction on the Register of Title of any registered freehold and leasehold property of the Borrower charged by this deed in the following terms: "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 Tier One Capital Limited or their conveyancer".

## 6. INSURANCE

- 6.1 The Borrower will keep comprehensively insured the Property with an insurance office or underwriter acceptable to the Security Trustee against such risks as the Lender shall specify from time to time. The insurance cover must be for the full replacement value plus VAT and be index-linked and with the Lender as co-insured in respect of the Property.
- 6.2 If any part of the Property is subject to a lease, then the Company will also insure for three years loss of rent.
- 6.3 The Borrower will punctually pay when due all premiums payable in respect of any insurance of the Charged Property and if required by the Security Trustee will deliver to the Security Trustee evidence satisfactory to the Security Trustee of payment of such premiums together with a copy of the insurance policies.
- 6.4 Subject to the provisions of any Lease of the Charged Property (and without prejudice to any obligation in the policy of insurance or to any other obligation having priority to the obligation imposed by this deed), the Borrower shall hold in trust for the Security Trustee all monies received by it under any insurance of the Charged Property and at the Security Trustee's option will apply the same in making good the relevant loss or damage or in or towards discharge of the Obligations and in the meantime will pay all such monies into such account as the Security Trustee may specify.
- 6.5 The Borrower covenants:-
  - 6.5.1 to comply with the requirements and recommendations of its insurers; and
  - 6.5.2 not to do or allow to be done anything on the Charged Property which might prejudicially affect any insurance policy.
- 6.6 If the Borrower is required under any Lease to insure the Charged Property or to reimburse the landlord any insurance premiums:-
  - 6.6.1 if the Borrower fully complies with such requirements, the Borrower will be deemed to have complied with clauses 6.1 and 6.2 if such insurance, whether by the Borrower or by the landlord, extends to cover at least the risks required by the Security Trustee in at least the amounts specified in such clauses; and
  - 6.6.2 the Borrower will on request from the Security Trustee from time to time produce satisfactory evidence of such insurance.
- 6.7 If the Borrower defaults in its obligations under this clause 6 or at any time after any of the Finance Parties has demanded repayment of the Obligations or if the Borrower does not ensure that any landlord insures the Charged Property (where applicable) in accordance with clause 6.6, the Security Trustee or any Receiver may effect insurance as specified in this clause 6 without becoming liable to account as mortgagee in possession and the cost of so doing shall be an Expense.
- 6.8 The Borrower shall notify the Security Trustee as soon as possible after an event has happened which is likely to lead to a claim being made under any insurance policy relating to the Charged Property.
- 6.9 Whenever any insurance whatsoever is effected through the agency of the Security Trustee all sums allowed to the Security Trustee by way of commission or otherwise by the insurers shall belong to the Security Trustee and the Security Trustee shall not be required to account to the Borrower for such sums.

## **7. UNDERTAKINGS BY THE BORROWER**

The Borrower undertakes with the Security Trustee:-

- 7.1 to collect in a proper and efficient manner all monies which it receives in respect of any policies of insurance, income or any other of the rights and claims charged under clause 4;
- 7.2 punctually to pay and to indemnify the Security Trustee and any Receiver against all rents, rates, taxes, duties, assessments and other outgoings payable in respect of the Property;
- 7.3 to observe and perform all covenants (positive and restrictive), conditions, permissions and stipulations from time to time affecting the Property;
- 7.4 to keep all buildings, gates, fences, drains, roads, pathways and other works on the Property in good repair and all fixtures and fixed plant and equipment in working order;
- 7.5 to permit the Security Trustee and its representatives to enter and view the state and condition of the Property;
- 7.6 not to remove or sever any fixture except for the purpose of renewal or replacement by a fixture of equal or greater value;
- 7.7 not to create or permit to arise any overriding interest as specified in Schedule 1 or Schedule 3 to the Land Registration Act 2002 affecting the Property;
- 7.8 to comply with all applicable laws and regulations affecting the Property (including all environmental law, legislation relating to the control and handling of hazardous substances or waste and the Planning Acts) and not to make any change of use or carry out any structural or material alteration to the Property or do or permit to be done anything which is a "development" within the meaning of the Planning Acts without the prior written consent of the Security Trustee;
- 7.9 to promptly serve all notices and take all action necessary to ensure that all rent reviews imposed by any Lease relating to the Property are resolved as quickly as possible and to achieve for the Borrower the best rent reasonably obtainable;
- 7.10 where the Charged Property comprises or is or become subject to any Lease:-
  - 7.10.1 upon request of the Security Trustee from time to time to inform the Security Trustee in writing who is in occupation of each part of the Property and upon what terms;
  - 7.10.2 enforce the prompt payment of all Rental Sums and the due observance and performance of all persons under such Lease;
  - 7.10.3 not waive, release or vary any of the terms of the Lease or accept a surrender of the same or exercise any power to determine or extend the same or grant any consent or licence without the written consent of the Security Trustee (not to be unreasonably withheld or delayed); and
  - 7.10.4 not without the prior written consent of the Security Trustee serve any notice under section 17 Landlord and Tenant (Covenant) Act 1995;
- 7.11 within 14 days of receiving any order, notice, proposal, demand or other requirement affecting the Charged Property from any competent authority (including any landlord) to give full particulars to the Security Trustee and deliver to the Security Trustee copies of such documents as it may require;
- 7.12 to comply with any requirements or recommendations of any fire officer or other inspector;



- 7.13 in the case of an advance to provide for the construction of any building, proceed with and continue the construction of the building in a proper manner and with due diligence and to the full satisfaction of the Security Trustee and complete and fit out the same within such time as the Security Trustee shall require;
- 7.14 to take out, renew and maintain all Licences;
- 7.15 to not allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of any of its properties (or any part of its properties) or create or permit to arise any overriding interest as specified in Schedule 1 or Schedule 3 to the Land Registration Act 2002 affecting any such properties;
- 7.16 whether or not title to any of its properties is registered under the Land Registration Act 2002, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against the title of all or part of any such properties, to give to the Security Trustee full particulars of the circumstances relating to such registration and if such caution or notice shall have been registered in order to protect a purported interest the creation of which is contrary to the obligations of the Borrower under this deed, immediately at the Borrower's expense to take such steps as the Security Trustee requires to ensure that the caution or notice (as applicable) is withdrawn or cancelled;
- 7.17 without the prior written consent of the Security Trustee not to do or allow to be done or omit to do on the Charged Property anything which might lead either to the Company incurring any liabilities or committing any offence under the Environmental Protection Act 1990 or incurring any other liability as a result of the pollution of the Charged Property or the Charged Property being entered upon any registers of land which may have been put to a contaminative use under that Act and further to send copies to the Security Trustee of any notice received in connection with environmental matters relating to the Charged Property;
- 7.18 generally not to do or cause or permit to be done anything to lessen the value or marketability of the Charged Property; and
- 7.19 whilst the Charged Property is now or at any time subject to a Lease:-
- 7.19.1 to give irrevocable instructions to any firm which is currently or from time to time employed by the Borrower to manage the Charged Property or to any new firm appointed to manage the Charged Property, instructing such firm to collect the Rental Sums, to pay them to such account and to provide such information in respect of Rental Sums in each case in such form and as the Security Trustee may require;
- 7.19.2 to cause such firm to sign and deliver an agreement acknowledging to the Security Trustee that it has received such instructions and agreed with the Security Trustee to comply with them;
- 7.19.3 if reasonably required by the Security Trustee, to appoint such firm as the Security Trustee may reasonably approve to manage the Charged Property and to collect the Rental Sums or remove any firm so acting and appoint another firm instead on terms reasonably approved by the Security Trustee;
- 7.19.4 not without the prior written consent of the Security Trustee, to remove or suspend any firm engaged in the management of the Charged Property or appoint another firm to manage the Charged Property except as approved by clause 7.19.3; and
- 7.19.5 at the option of the Security Trustee, instead of requiring the appointment of a firm to manage the Charged Property pursuant to clause 7.19.3, at the Company's cost, to serve written notice on the lessees, underlessees, tenants or licensees of the Charged Property

requiring them to pay all sums payable by them in the future in relation to the Charged Property to the Security Trustee or as the Security Trustee may direct.

- 7.20 to notify the Security Trustee promptly of any indication given to the Borrower that the Property is or may be listed in a register of contaminated land or contaminative use or similar register. The Borrower also agrees to notify the Security Trustee if any environmental or other condition exists which could have a material adverse effect on the value of the Charged Property; and

## **8. POWERS OF THE LENDER**

- 8.1 The Security Trustee may without restriction grant or accept surrenders of Leases of the Property or any part of it and grant or vary or reduce any sum payable under any Lease.
- 8.2 Section 103 of the Law of Property Act 1925 shall not apply and the Security Trustee may exercise its power of sale and other powers under that or any other Act or this deed at any time after the date of this deed.
- 8.3 The Security Trustee may, to the extent permitted by law, at any time or if so requested by the Borrower, under hand or by a deed, appoint or remove (subject to section 45 of the Insolvency Act 1986) a Receiver or Receivers of any of the Charged Property, fix and pay the fees of a Receiver and substitute any Receiver, but any Receiver shall be the agent of the Borrower and the Borrower shall be solely responsible for the Receiver's acts, defaults and remuneration.
- 8.4 At any time after a demand for repayment of the Obligations, all or any of the powers conferred by clause 9.1 may be exercised by the Security Trustee, whether as the Borrower's attorney or not, without first appointing a Receiver or notwithstanding any such appointment.
- 8.5 The Security Trustee will not be liable to account to the Borrower as mortgagee in possession for any money not actually received by the Security Trustee and if the Security Trustee or any Receiver takes possession of the Charged Property it or he may at any time relinquish such possession (whether it or he relinquishes such possession in whole or in part).
- 8.6 If the Borrower is in default of any of its obligations under this deed, the Security Trustee or any Receiver may perform such obligation and take such action as is necessary to make good the default without becoming liable to account as a mortgagee in possession.
- 8.7 Section 93(1) of the Law of Property Act 1925 shall not apply to this deed.
- 8.8 The Security Trustee may at any time obtain, at the Borrower's expense, an up to date professional valuation of the Property and the Borrower shall give any valuer so instructed all reasonable assistance to enable him to carry out the valuation and permit him such access to the Property and to the records and accounts of the Borrower as he reasonably requires to conclude his valuation.

## **9. RECEIVERS**

- 9.1 Any Receiver appointed by the Security Trustee shall be a receiver and manager and shall have the powers specified in schedule 1 to the Insolvency Act 1986 and the following powers exercisable upon such terms and conditions as he thinks fit:-
- 9.1.1 to take possession of and generally to manage the Charged Property;
- 9.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract or arrangement to which the Borrower is or is to be a party;
- 9.1.3 to carry out on the Property or on any other property which it may in his opinion be necessary or desirable to work upon, any new works or complete any unfinished works of

building, reconstruction, maintenance, furnishing of equipment and to apply for and obtain all planning permissions, building regulation approvals and other permissions, consents or licences as may be necessary or desirable for such purposes and to effect and/or carry out any development, building or other works;

- 9.1.4 to purchase or acquire any land or other property and purchase, acquire, grant or release any interest in or right over land or other property and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Property;
  - 9.1.5 to sell, lease, licence, surrender or accept surrenders of Leases, deal with or dispose of the Charged Property without restriction including power to dispose of any fixtures separately from the land;
  - 9.1.6 to complete any transaction by executing deeds or documents in the name of or on behalf of the Borrower;
  - 9.1.7 to insure the Charged Property and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees, indemnities and security;
  - 9.1.8 to engage, rely on the advice of and dismiss advisers, consultants, officers, managers, agents, workmen and others;
  - 9.1.9 to purchase materials, tools, equipment, goods or supplies;
  - 9.1.10 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise;
  - 9.1.11 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
  - 9.1.12 to make any elections for VAT purposes; and
  - 9.1.13 to do any other acts which he may consider to be incidental or conducive to any of his powers or to the realisation of the Charged Property.
- 9.2 In the case of joint Receivers any power may be exercised jointly or severally.
- 9.3 Any Receiver shall apply all money he receives first in discharge of all claims ranking in priority to this deed, secondly in repayment of all money borrowed by him and in payment of his expenses, liabilities and fees and thirdly in or towards the remaining matters specified in section 109(8) of the Law of Property Act 1925.

#### **10. PROTECTION OF PURCHASERS AND POWER OF ATTORNEY**

- 10.1 No purchaser or other person shall be obliged or concerned to see or enquire whether the right of the Security Trustee or any Receiver to exercise any of the powers conferred by this deed has arisen or become exercisable nor be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.
- 10.2 The receipt of the any Finance Party or any Receiver shall be an absolute discharge and the payer shall not be obliged to see the application of the monies paid to either of them.

- 10.3 Neither the Security Trustee nor any Receiver shall be liable to the Borrower in respect of any loss or damage arising out of the exercise or the attempted, purported or failure to exercise any of their respective powers or arising out of any valuation or report relating to the Charged Property.
- 10.4 The Borrower by way of security irrevocably appoints the Security Trustee and any Receiver severally to be the attorney for the Borrower (with full power of substitution and delegation) in the Borrower's name and on the Borrower's behalf and as the Borrower's act and deed to sign or execute all such deeds, instruments and documents and do all such acts and things as may be required by the Security Trustee or any Receiver pursuant to this deed or the exercise of any of their powers.

#### **11. APPROPRIATION, SET-OFF AND RESTRICTION**

- 11.1 Subject to clause 11.2, the Security Trustee may apply all payments received in respect of the Obligations in or towards discharge of such part of the Obligations as the Security Trustee decides.
- 11.2 Any Finance Party may open a new account upon the Security Trustee receiving actual or constructive notice of any charge or interest affecting the Charged Property and whether or not the Finance Party opens any such account no payment received by the Finance Party after receiving such notice shall (if followed by any payment out of or debit to the relevant account) be appropriated towards or have the effect of discharging the Obligations outstanding at the time of receiving such notice.
- 11.3 The Borrower agrees that each Finance Party may at any time without notice (and notwithstanding any settlement of account or other matter) combine or consolidate all or any of its then existing accounts including accounts, jointly in the name of the Borrower and any other person (whether current, deposit, loan or of any other nature, whether subject to notice or not and whether in sterling or any other currency).
- 11.4 Each Finance Party shall be entitled at any time or times without notice (both before and after demand) to set off any liability of the Borrower to that Finance Party against any liability of the such Finance Party to the Borrower (in either case whether actual or contingent, present or future and irrespective of the branch or office, currency or place of payment) and may for such purpose convert or exchange any currency.

#### **12. PROTECTION OF SECURITY**

This deed shall be a continuing security in the Finance Parties' favour, regardless of any settlement of account or any other matter whatsoever and shall be without prejudice and in addition to every other right, remedy or security which the Finance Parties may have now or in the future in respect of any of the Charged Property for the payment of any of the Obligations.

#### **13. FURTHER ASSURANCE**

The Borrower will at its own cost at the Security Trustee's or any Receiver's request execute any deed or document and take any action required by the Security Trustee or any Receiver to perfect or protect this security or its priority or further to secure on the Charged Property the Obligations or for facilitating the realisation of the Charged Property or the exercise of any rights or powers of the Security Trustee or any Receiver or for establishing the nature or extent of the Charged Property.

#### **14. COSTS AND PAYMENTS**

- 14.1 The Borrower agrees that it is responsible for all costs, charges and liabilities (including professional fees and disbursements and VAT and/or any similar tax) and all other sums paid or incurred by any Finance Party and/or any Receiver under or in connection with this deed or the Borrower's affairs. The Security Trustee may recover them from the Borrower (on a full indemnity basis) as a debt

payable on demand and debit them without notice to any of the Borrower's accounts. They will attract interest and be charged on the Charged Property.

- 14.2 The costs which may be recovered from the Borrower by the Security Trustee and/or any Receiver under this deed include:-
- 14.2.1 all costs incurred by the Security Trustee in preparing and administering this deed or perfecting the security created by it;
  - 14.2.2 all costs (whether or not allowable on a taxation by the Court) of all proceeding to enforce this deed or to recover or attempt to recover the Obligations;
  - 14.2.3 all money spent and all costs arising out of the exercise of any power, right or discretion conferred by this deed;
  - 14.2.4 all costs and losses arising from any default by the Borrower in the payment when due of any of the Obligations or the performance of the Borrower's obligations under this deed; and
  - 14.2.5 all the Finance Parties' charges based on time spent by each Finance Party's employees and agents in connection with the Borrower's affairs.
- 14.3 All sums payable by the Borrower shall be paid in sterling in immediately available funds and shall be paid to the credit of such account as the Security Trustee may designate. All such payments shall be made in full without set-off of any sum owing by any Finance Party to the Borrower or counter-claim and free and clear of any deduction of or withholding for or on account of any tax or for any other reason, except to the extent that any such deduction or withholding is required by law.
- 14.4 If, for any reason, any amount payable by the Borrower is paid or recovered in a currency other than sterling and, when converted into sterling at the Security Trustee's nominated exchange rate applicable at the time, is less than the sum payable, the Borrower undertakes to make good the amount of the shortfall on demand.

## **15. MERGER OR AMALGAMATION**

The Obligations shall include all liabilities of the Borrower to each of the Finance Parties notwithstanding any change to the name, style or constitution of any Finance Party and/or any Lender's absorption by or in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person and all sums in respect of advances and other facilities from such other person.

## **16. NOTICES**

- 16.1 All notices or demands must be in writing.
- 16.2 Any notice or demand to the Borrower may be sent by prepaid post or delivered to the Borrower at its address set out on page 1 of this deed or the Borrower's last known address.
- 16.3 Any notice to the Security Trustee must be sent by prepaid post or delivered to the Lender at its address as set out in this deed unless it has communicated another address to the Borrower in which case it must be sent to the last address so communicated.
- 16.4 The address for service on the Security Trustee in the case of registered land is Keel House, Garth Heads, Newcastle upon Tyne, NE1 2JE.
- 16.5 A notice or demand by the Security Trustee sent by post will be deemed served on the day after posting (but, if to another country, three days after posting).

## **17. LAW AND JURISDICTION**

- 17.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 17.2 The Borrower irrevocably submits to the exclusive jurisdiction of the English courts.

## **18. ASSIGNMENT AND TRANSFER**

- 18.1 The successors in title of the parties shall have the benefit of and be subject to this deed.
- 18.2 The Security Trustee may at any time dispose of or deal in any manner with or without notice to any other person all or any part of its rights, beneficial interests or benefits under this deed.
- 18.3 The Security Trustee may give such information relating to the Borrower, its affairs or this deed as it thinks fit to any of its associated companies and to any third party proposing to take an assignment and/or transfer from the Security Trustee and/or to enter into contractual relations with the Security Trustee with respect to this deed.

## **19. INDEMNITY**

The Borrower will indemnify the Security Trustee on demand against any loss or expense (including legal fees) sustained or incurred as a result either of a failure by the Borrower to perform any of its obligations under this deed or of any representation or warranty made in this deed having been incorrect when made.

## **20. WAIVER**

No failure to exercise or any delay in exercising any right or remedy under this deed shall operate as a waiver of it or of any other right or remedy under it. No single or partial exercise of any such right or remedy shall prevent any further or other exercise of it or the exercise of any other right or remedy.

## **21. MISCELLANEOUS**

- 21.1 Any obligation on the part of the Finance Parties to make further advances to the Borrower is deemed incorporated into this deed and the Borrower applies to the Chief Land Registrar for a note of such obligation to be entered on the Register of Title of the Property.
- 21.2 If two or more persons are included in the expression "Borrower":-
- 21.2.1 the use in this deed of the word "Borrower" shall be deemed to refer to such persons both together and separately;
  - 21.2.2 the liability of each Borrower under this deed shall be joint and several;
  - 21.2.3 any communication under this deed shall be deemed to be served on every Borrower if served on one Borrower; and
  - 21.2.4 the Security Trustee may release or discharge any one or more of them from all or any liability or obligation under this deed or may make any arrangement or composition with any such person without by so doing releasing any other or others of them.

IN WITNESS whereof this deed was duly executed as a deed and delivered on the date specified on page 1.

## **SCHEDULE**

### **The Property**

#### **Registered Land**

leasehold land and buildings known as Low Barkhouse Farm, Setmurthy, Cockermouth, Cumbria CA13 9SJ and registered at the Land Registry with title number CU265222

SIGNED AS A DEED by THE LAKES DISTILLERY  
COMPANY LIMITED acting by a director in the  
presence of:-

) *Myer*

Witness Name *MARK LAZEBY*

Witness Signature *[Signature]*

Witness Address *Arson House, Newcastle upon Tyne*

Witness Occupation *Solutor*

EXECUTED AS A DEED by TIER ONE CAPITAL  
LIMITED acting by a director in the presence of:-

) *464*

Witness Name *MARK LAZEBY*

Witness Signature *[Signature]*

Witness Address *Arson House, Newcastle upon Tyne*

Witness Occupation *Solutor*