



**Companies House**

**MR01**(ef)

**Registration of a Charge**

Company name: **ACKERY BRANDS LIMITED**

Company number: **08096721**

Received for Electronic Filing: **05/07/2013**



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**Details of Charge**

Date of creation: **14/06/2013**

Charge code: **0809 6721 0002**

Persons entitled: **MANTUA CAPITAL LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Notification of addition to or amendment of charge.**

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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 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:

**GATELEY LLP**



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

Company number: 8096721

Charge code: 0809 6721 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th June 2013 and created by ACKERY BRANDS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th July 2013 .

Given at Companies House, Cardiff on 5th July 2013



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



DATED 14 JUNE 2013

(1) T&H DESIGN LIMITED AND OTHERS

(2) MANTUA CAPITAL LIMITED

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**COMPOSITE GUARANTEE AND DEBENTURE**

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DATE

14 June

2013

**PARTIES**

- (1) **THE COMPANIES** listed in schedule 2 (the "**Companies**"); and
- (2) **MANTUA CAPITAL LIMITED**, a company registered in England and Wales (company number 08504388) whose registered office is at Virginia House, 56 Warwick Road, Solihull, West Midlands B92 7HX.

**1. Definitions**

- 1.1 In this Deed the following definitions will apply:

<b>"Administrator"</b>	any person appointed under the Insolvency Act to manage a Company's business and assets;
<b>"Business Day"</b>	any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;
<b>"Book Debts"</b>	all present and future book debts, revenues and claims whether actually or contingently owing to the Companies both present and future and including all rights which may give rise to a debt, revenue or claim and any security held by the Companies for such debt, revenue or claim and any other rights relating to such Book Debts, such as, reservation of title or an unpaid vendor's lien;
<b>"Chargee"</b>	Mantua Capital Limited (company number 08504388);
<b>"Charged Assets"</b>	the subject matter of the mortgages and charges created by this Deed and set out at Clause 4;
<b>"Default"</b>	any of the following events: <ol style="list-style-type: none"><li>(a) the Chargee makes demand for the payment or discharge of all or any part of the Secured Liabilities;</li><li>(b) a Company requests the Chargee to appoint an Administrator or a Receiver or to take possession;</li><li>(c) a Company breaches (or is found to have breached) any of the covenants or warranties given by it to the Chargee in this Deed;</li></ol>
<b>"Dispose" or "Disposal"</b>	includes sale, transfer, lease, licence, or parting with possession or granting any interest in;

<b>“Environmental Laws”</b>	all laws, directions and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency (whether in the United Kingdom or elsewhere and whether or not having the force of law) concerning the protection of the environment or human health, including the conservation of natural resources, the production, storage, transportation, treatment, recycling or disposal of any waste or any noxious, offensive or dangerous substance or the liability of any person, whether civil or criminal, for any damage to or pollution of the environment or the rectification thereof or any related matters;
<b>“Environmental Licence”</b>	any permit, licence, authorisation, consent or other approval required by any Environmental Law;
<b>“Equipment”</b>	any plant, machinery and/or other equipment charged to the Chargee by this Deed;
<b>“Expenses”</b>	those fees, cost, charges and expenses covenanted to be paid by the Companies in Clause 17.1;
<b>“Indemnified Events”</b>	the matters and events in respect of which the Companies are liable to indemnify or reimburse the Chargee, including those referred to in Clauses 6.2 and 17;
<b>“Insolvency Act”</b>	the Insolvency Act 1986 and any secondary legislation made under it;
<b>“Intellectual Property”</b>	all patents (including applications, improvements, extensions and rights to apply for any patents), design rights, trade marks and service marks (whether registered or unregistered) and applications for the same, copyright, trade, brand, domain and business names, know how, confidential information, trade secrets, databases and computer software programs and systems and all other intellectual or intangible property (including the benefit of any licences or consents relating to any of the above) and all fees, royalties or other rights derived there from or incidental thereto in any part of the world;
<b>“LPA”</b>	the Law of Property Act 1925;
<b>“Permitted Security Interest”</b>	any lien arising by operation of law in the ordinary and normal course of trading over property other than land;
<b>“Property”</b>	any freehold or leasehold property owned or occupied by the Companies;
<b>“Receiver”</b>	any receiver or receiver and manager who is not

	an administrative receiver (within the meaning of section 29(2) Insolvency Act) appointed under this Deed;
<b>“Secured Liabilities”</b>	all monies, obligations and liabilities which the Companies covenant to pay in Clause 3.1;
<b>“Securities”</b>	all notes, stocks, shares, bonds and securities (including warrants and options to acquire or subscribe for any of the same) whether marketable or not, held by the Companies now or at any time in the future and all rights and benefits at any time accruing, offered or arising in respect of the same and all money or property accruing or offered at any time by way of dividend, distribution, conversion, redemption, bonus, preference, option, interest or otherwise in respect of them; and
<b>“Security Interest”</b>	any mortgage, charge, pledge, trust, assignment by way of security, hypothecation, lien, encumbrance or any other arrangement for the purpose of or having a similar effect to creating security or any title retention rights or any set off rights created by agreement.

## 2. Interpretation

### 2.1 In this Deed, a reference to:

- 2.1.1 a clause or schedule is, unless otherwise stated, a reference to a clause of, or a schedule to, this Deed;
- 2.1.2 a paragraph is, unless otherwise stated, a reference to a paragraph of a schedule;
- 2.1.3 a statutory provision includes a reference to that statutory provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this Deed and any provision of this Deed which refers to any statutory provision which is amended may itself be amended in such manner as the Chargee may determine to preserve the intended effect of this Deed;
- 2.1.4 a “subsidiary” shall include a reference to a “subsidiary” and a “subsidiary undertaking” (each as defined in the Companies Act 2006);
- 2.1.5 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- 2.1.6 the “Chargee” includes its assignees or transferees and any successor as Chargee;
- 2.1.7 the “Charged Assets” is to the whole or any part of such property or assets, as the content requires;
- 2.1.8 any party to this Deed comprising more than one person includes each person constituting that party;



- 2.1.9 a company (other than a "Company") shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- 2.1.10 writing shall include any mode of reproducing words in a legible and non-transitory form; and
- 2.1.11 this Deed or any provision of this Deed or any other document in relation to this Deed, that provision or that document as in force for the time being and as amended from time to time in accordance with the terms of this Deed or that document or with the agreement of the relevant parties (as the case may be).
- 2.2 The schedules form part of this Deed and have the same effect as if expressly set out in the body of this Deed and shall be interpreted and construed as though they were set out in this Deed.
- 2.3 The contents table and headings in this Deed are for convenience only and do not affect the interpretation or construction of this Deed.
- 2.4 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 2.5 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 2.6 Whenever a Company is obliged to do something if required or requested by the Chargee pursuant to this Deed, it shall do that thing promptly.
- 2.7 Any term or phrase defined in the Companies Act 2006 (whether capitalised or not) bears the same meaning when used in this Deed.
- 2.8 It is intended that this Deed takes effect as a deed even though the Chargee may only execute it under hand.
- 3. **Covenant to pay and guarantee**
- 3.1 The Companies agree with the Chargee to pay and/or discharge when the same are due and payable:
  - 3.1.1 all monies (in whatever currency), obligations and liabilities which are from time to time due, owing or incurred by the Companies to the Chargee from time to time whether actually or contingently, solely or jointly and whether as principal or surety, including interest (as well after as before judgment), commission and other fees and charges at the rates and on the terms agreed between the Companies and the Chargee from time to time;
  - 3.1.2 Expenses and all amounts owing in respect of Indemnified Events; and
  - 3.1.3 in each case, interest at the rate agreed between the Companies and the Chargee from time to time (or if no such rate has been agreed, at a rate of 10% per annum), from the date the same fall due for payment to the date of payment in full compounded monthly.
- 3.2 Each Company, as principal obligor and not merely as surety:
  - 3.2.1 guarantees to the Chargee full, prompt and complete payment by each other Company of all of the Secured Liabilities due, owing or incurred by such Company as and when they become due for payment;
  - 3.2.2 undertakes to the Chargee that if any Company fails to pay any sum comprised in the Secured Liabilities on its due date it will pay such sum on

demand as if such other Company was the principal obligor in respect of those Secured Liabilities; and

- 3.2.3 agrees to indemnify the Chargee as an additional and independent obligation against all losses, damages, costs and expenses incurred by the Chargee arising from any failure by any other Company to pay the sums comprised in the Secured Liabilities as and when they fall due.

#### 4. Charging provisions

- 4.1 As continuing security for the payment and/or discharge of the Secured Liabilities, the Companies with full title guarantee charge to the Chargee:

- 4.1.1 by way of **legal mortgage**, the property (if any) described in schedule 1;
- 4.1.2 by way of **fixed charge** any freehold or leasehold property (excluding any property charged by Clause 4.1.1) now and in the future owned by the Companies or in which the Companies may have an interest;
- 4.1.3 by way of **fixed charge**, all buildings, fixtures and fittings (including trade fixtures and fittings) from time to time in, on or attached to any Company's freehold or leasehold property;
- 4.1.4 by way of **fixed charge**, any plant, machinery, vehicles, computer equipment, furniture, tools and other equipment not disposed of in the ordinary course of the Companies' business and all spare parts, replacements, modifications and additions for or to such Equipment and the benefit of all manuals, instructions, warranties and maintenance agreements relating to such Equipment;
- 4.1.5 by way of **fixed charge**, all Book Debts;
- 4.1.6 by way of **fixed charge**, all the Companies' goodwill and uncalled capital present and future;
- 4.1.7 by way of **fixed charge**, all the Companies' Intellectual Property from time to time not disposed of in the ordinary course of the Companies' business;
- 4.1.8 by way of **fixed charge**, all Securities from time to time owned by the Companies or in which they has an interest;
- 4.1.9 by way of **fixed charge**, all loan capital, indebtedness or liabilities on any account or in any manner owing to the Companies from any subsidiary of the Companies or a member of the Companies' Group;
- 4.1.10 by way of **fixed charge**, all the Companies' rights and claims (including to the return of premiums) under all insurance policies in which the Companies have an interest from time to time; and
- 4.1.11 by way of **floating charge**, all the Companies' property, assets and rights from time to time not subject into a fixed charge under this Deed (including any property or assets situated in Scotland).

- 4.2 The floating charge created by Clause 4.1.11 is a qualifying floating charge in accordance with paragraph 14 of Schedule B1 Insolvency Act.

- 4.3 The floating charge created by this Deed will automatically without notice be converted into a fixed charge over those assets concerned:

- 4.3.1 if, without the Chargee's prior written consent, any Company creates or attempts to create any Security Interest (other than a Permitted Security Interest) over all or any of its assets charged by way of floating charge;
- 4.3.2 if any person levies or attempts to levy any distress, execution or other

- process against such assets;
- 4.3.3 if any person presents a petition to wind up any Company or applies for an administration order; or
- 4.3.4 upon the enforcement of this Deed.
- 4.4 The Chargee may by notice to the Companies at any time convert the floating charge created by Clause 4.1.11 to a fixed charge as regards any of the assets specified in the notice.
- 5. **Restrictions**
- 5.1 The Companies agree with the Chargee that they will not, without the Chargee's prior written consent:
  - 5.1.1 create or permit to subsist, in favour of any person other than the Chargee, any Security Interest on the Charged Assets, except for any Permitted Security Interest; or
  - 5.1.2 Dispose or agree to Dispose of any Charged Assets charged by way of fixed charge; or
  - 5.1.3 Dispose of any Charged Assets charged by way of floating charge other than for market value in the ordinary and normal course of business.
- 5.2 Each Company consents to the Chargee applying to the Land Registry in form RX1 to register the following restriction against each of the titles specified in schedule 1 or which is the subject of first registration of title.
 

"RESTRICTION

No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor of the charge dated \_\_\_\_\_ in favour of Mantua Capital Limited (as Chargee) referred to in the charges register [(or his conveyancer)] or, if appropriate, signed on such proprietor's behalf by [its secretary or conveyancer]."
- 6. **General covenants**
- 6.1 Each of the Companies agrees with the Chargee that it will:
 

*General*

  - 6.1.1 conduct its business so that its centre of main interest (for the purposes of Council Regulation (EC) No. 1346/2000) is located at all times in England and Wales and not move its centre of main interest to another jurisdiction without the Chargee's prior written consent;
  - 6.1.2 not permit any person to become entitled to any proprietary right or interest which might affect the value of the assets subject to the fixed charges created by this Deed;

*Insurance*

  - 6.1.3 keep those Charged Assets that are of an insurable nature comprehensively insured against loss (including loss of rent and profits) or damage by fire and other risks usually insured against by prudent businesses or that the Chargee reasonably requires to their full replacement or reinstatement value with insurers approved by the Chargee;
  - 6.1.4 procure that the Chargee's interest is noted on such insurance policies and produce to the Chargee the receipts (or other evidence) for each

current premium on its request; failing such production the Chargee may assume that such insurance has lapsed and exercise its rights under Clause 6.2;

- 6.1.5 apply all moneys received under any insurance relating to the Charged Assets, prior to the occurrence of a Default, be applied:
- 6.1.5.1 to meet a third party claim;
  - 6.1.5.2 to cover operating losses in respect of which the relevant insurance claim was made; or
  - 6.1.5.3 in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made.
- 6.1.6 after the occurrence of a Default, hold such moneys upon trust for the Chargee pending payment to the Chargee for application in accordance with Clause 14.1 (*Application of Monies*) and such Company waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Charged Assets;

*Property and Environmental*

- 6.1.7 keep all Property in good and substantial repair and allow the Chargee access, at all reasonable times, to view the condition of its Property;
- 6.1.8 observe and perform all restrictive and other covenants and stipulations for the time being affecting the Property or its use or enjoyment;
- 6.1.9 comply in all material respects with all statutory and regulatory obligations relating to the Property;
- 6.1.10 comply with all Environmental Laws and Environmental Licences applicable to the Property and its business;
- 6.1.11 observe and perform all the lessee's covenants in any lease under which any Property is held and enforce the observance and performance of all obligations of other persons under any lease or licence granted by it;
- 6.1.12 punctually pay and indemnify the Chargee and any Receiver or Administrator against all rent, rates, taxes, charges and any other outgoings payable in respect of the Property and promptly produce the receipts for them to the Chargee upon its request;
- 6.1.13 in relation to any Property, not without the Chargee's prior written consent, permit any person to become entitled to any right, easement, covenant or other matter which might adversely affect the use, value or marketability of the Property;

*Equipment*

- 6.1.14 maintain the Equipment in good and substantial repair and serviceable condition and (where applicable) ensure that it is properly and regularly serviced in accordance with any relevant warranties or manuals;
- 6.1.15 obtain all necessary certificates, licences, permits and authorisations from time to time required for the use and/or operation of the Equipment and not to do or permit to be done any act or omission whereby the Equipment or its use would contravene any legislation or regulations for the time being in force;
- 6.1.16 if requested by the Chargee, keep prominently affixed to each item of Equipment plates, labels or such other means of identification or

notification as the Chargee requires showing that the Equipment is subject to this security and not remove, obscure or deface the same or permit the same to be removed, obscured or defaced;

- 6.1.17 prevent the Equipment from being distrained for any rent, rates or other outgoings or from being taken under execution;
- 6.1.18 punctually pay and indemnify the Chargee and any Receiver or Administrator against any assessments, fees and charges in respect of the Equipment;

#### *Book Debts*

- 6.1.19 not assign, factor or discount its Book Debts;
- 6.1.20 collect its Book Debts in the ordinary course of its business or in accordance with any directions given by the Chargee from time to time;
- 6.1.21 on the Chargee's request, send to it details of its Book Debts including the identity of the debtor, the amount owing and the due date for payment;
- 6.1.22 on the Chargee's demand execute an assignment of its Book Debts in such form as the Chargee may require and serve notice of such assignment on the relevant debtors;
- 6.1.23 upon crystallisation of the floating charge in Clause 4.1.11 not pay or otherwise deal with the monies in any of its bank accounts except in accordance with any written directions the Chargee may give from time to time (subject to any rights which the bank at which the account is held has in respect of such monies);

#### *Intellectual Property*

- 6.1.24 protect its Intellectual Property against theft, loss, copying or unauthorised use by third parties and upon becoming aware of any infringement of or challenge to, its Intellectual Property, inform the Chargee and take (or permit the Chargee in the name but at the expense of the Companies to take) whatever action is necessary to prevent such infringement or challenge or to recover damages;
- 6.1.25 take all necessary actions (including obtaining all necessary registrations and paying all applicable renewal and licence fees) to ensure that the Intellectual Property to which it is or may become entitled is valid and subsisting and remains owned by the Companies and not allow any Intellectual Property to be abandoned, cancelled or to lapse. If any Intellectual Property shall at any time lapse or become void, the Companies shall do everything necessary to restore such Intellectual Property to the Companies;

#### *Securities*

- 6.1.26 pay all calls in respect of any Securities (it being acknowledged by the Companies that the Chargee shall not incur and liability of any kind for such monies); and
- 6.1.27 deposit with the Chargee all certificates or other documents of title in respect of the Securities, together with duly executed transfers or assignments of the Securities with the name of the transferee left blank; (it being acknowledged that the Chargee may at any time register the Securities either in its own name or in the name of nominees selected by it).

6.2 If the Companies fail to comply with any of its obligations under this Deed (including

failing to insure or repair any Property or Equipment) the Companies irrevocably authorise the Chargee (and any agent appointed by it) to make good such failure on its behalf. For this purpose the Companies authorise the Chargee (and any agent appointed by it) to enter into its Property. The Chargee shall not become liable as mortgagee in possession as a result of any action taken by it under this Clause. All costs and expenses incurred by the Chargee pursuant to this authority shall be reimbursed by the Companies to the Chargee on its demand.

**7. Further assurance and power of attorney**

7.1 The Companies will, upon the Chargee's request, grant it such further Security Interests in the Charged Assets in such form and on such terms as the Chargee may require and do whatever other acts or things the Chargee may require in relation to the Charged Assets in order to secure the Secured Liabilities, to perfect or protect the Security Interests created by this Deed or to facilitate the realisation of the Charged Assets.

7.2 The Companies by way of security irrevocably appoint the Chargee and any Receiver severally to be its attorneys in its name and on its behalf to:

7.2.1 do all things which the Companies may be required to do under this Deed;

7.2.2 sign, execute, and deliver and otherwise perfect any security required to be executed pursuant to Clause 7.1; and

7.2.3 sign, execute, deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required to enable the Chargee or any Receiver to exercise their powers under this Deed, or to perfect or vest in the Chargee, its nominees or any purchaser, title to any Charged Assets or which they may deem expedient in connection with the getting in, disposal, or realisation of any or the exercise of any other power under this Deed.

7.3 Each attorney may appoint a substitute or delegate his authority. The Companies ratify and confirm (and agree to ratify and confirm) anything which an attorney does under the power of attorney in this Clause 7.

**8. Enforcement**

At any time after a Default the Chargee may with or without further notice to the Companies:

8.1 appoint an Administrator of any Company in accordance with the Insolvency Act;

8.2 appoint a Receiver to any of the Charged Assets, provided that they comprise less than the whole or substantially the whole of a Company's' assets (within the meaning of section 29 Insolvency Act);

8.3 exercise in respect of all or any of the Charged Assets all or any of the powers and remedies given to mortgagees by the LPA, including the power to take possession of, receive the benefit of, or sell any of the Charged Assets;

8.4 exercise in the name of a Company (without any further consent or authority from the Companies) any voting rights attached to the Securities and all powers given to trustees in respect of securities or property subject to a trust and any other powers or rights exercisable by the registered holder of the Securities or by the bearer of the Securities; and

8.5 direct that all dividends, distributions, interest and other monies received by it in respect of the Securities are paid to it and applied in accordance with Clause 14.

**9. Appointment of a Receiver**

- 9.1 The Chargee may either under hand of any manager or by deed appoint any one or more than one person to act as Receiver of those Charged Assets specified in the appointment.
- 9.2 The Chargee may from time to time fix the remuneration of any Receiver on such basis as it shall determine. This may include a fixed fee or an hourly rate or a commission depending upon the work and responsibilities assumed by the Receiver and the basis of charging applied by his firm. Section 109 LPA shall be varied accordingly.
- 9.3 The Chargee may remove or replace any Receiver appointed by it.
- 9.4 The Chargee may extend a Receiver's appointment to include Charged Assets previously excluded from his appointment.
- 9.5 A Receiver will be the agent of the Companies and the Companies will be solely responsible for his acts, omissions, defaults and remuneration.
- 10. Powers of enforcement**
- 10.1 An Administrator will have all the powers given to him under the Insolvency Act.
- 10.2 A Receiver may exercise in respect of the Charged Assets to which he is appointed:
- 10.2.1 the same powers to do, or to omit to do, in the name of and on behalf of the Companies, anything which the Companies themselves could have done or omitted to do with such Charged Assets were they not the subject of this Deed and the Companies were not in insolvency proceedings;
  - 10.2.2 all or any powers given to receivers by the LPA but without any of the restrictions imposed upon the exercise of those powers by the LPA; and
  - 10.2.3 notwithstanding that he is not an administrative receiver, all or any of the powers specified in schedule 1 to the Insolvency Act.
- 10.3 If more than one person is appointed to act as Receiver, each person may act severally, independently of any other, except to the extent that the Chargee states to the contrary in the appointment. References in this Deed to the Receiver are to each and all of them as appropriate.
- 10.4 If the Chargee enforces this Deed itself pursuant to Clause 8.3 it will have the same powers as a Receiver in respect of those Charged Assets which are the subject of the enforcement.
- 10.5 Except to the extent provided by law, none of the powers described in this Clause 10 will be affected by an insolvency event in relation to the Companies.
- 11. Waiver of defences**
- 11.1 The guarantee contained in Clause 3.2 shall be a continuing security to the Chargee.
- 11.2 The guarantee contained in Clause 3.2 shall not be considered to be satisfied by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities, or the existence of any credit balance on any account maintained by any Company with the Chargee, but shall extend to cover any Secured Liabilities from time to time.
- 11.3 The obligations of the Companies pursuant to guarantee contained in Clause 3.2 shall not be prejudiced by:
- 11.3.1 any time or other indulgence granted by the Chargee to the any Company or any other person;
  - 11.3.2 the liquidation, administration, administrative receivership, receivership, dissolution or other disability or incapacity of any Company or any other

person;

- 11.3.3 any lack of or limitation upon the borrowing or other powers of any Company or the absence of authority on the part of any Company in respect of the Secured Liabilities;
  - 11.3.4 any defect in or the invalidity of unenforceability of any other security or guarantee in favour of the Chargee in respect of the obligations of any Company; or
  - 11.3.5 any other matter which might operate to prevent the Chargee enforcing the obligations of any Company as primary obligor.
- 11.4 The Chargee shall at all times, in its absolute discretion, be entitled to:
- 11.4.1 vary, renew, determine, extend or increase any facilities made available to the Companies; and
  - 11.4.2 deal with, renew, vary, release, enforce or realise in any manner or to abstain from enforcing or perfecting on such terms as it deems fit any security or guarantee or other right which it may from time to time hold in respect of the Secured Liabilities

in each case without prejudicing or limiting the obligations of the Companies pursuant to the guarantee contained in Clause 3.2.

- 11.5 The Chargee may at any time place and keep for such period as it thinks fit any moneys received by it from the Companies to the credit of a separate suspense account, without any obligation to apply such moneys in and towards the discharge of the Secured Liabilities other moneys payable pursuant to the guarantee contained in Clause 3.2.

## **12. Subordination**

- 12.1 If any Company is wound-up, the Chargee may prove in such winding up for all Secured Liabilities and shall be entitled to retain the whole of the distribution paid to it, to the exclusion of any rights of any Company, as guarantor in competition with the Chargee until the Chargee's claim has been satisfied in full.
- 12.2 No Company will seek to prove for any moneys owing to it from any other Company in any winding up unless and until the Secured Liabilities, together with any other moneys payable pursuant to the guarantee contained in Clause 2, has been repaid in full.
- 12.3 No Company will, without the prior written consent of the Chargee, take any promissory note, bill of exchange, mortgage, charge or other security, of any kind from any other Company in respect of its liability to the Chargee pursuant to the guarantee contained in Clause 2.

## **13. The Chargee's powers and protections**

- 13.1 The powers and remedies conferred on the Chargee as a mortgagee by the LPA shall not be subject to any of the restrictions imposed by the LPA upon the exercise of those powers and remedies including those imposed by sections 103 and 109 LPA.
- 13.2 The Chargee may grant or accept surrenders of leases at a premium or otherwise and grant agreements or options for the same on such terms as it shall consider expedient and without the need to observe sections 99 and 100 LPA.
- 13.3 The restrictions on the right of consolidating mortgages contained in section 93 LPA will not apply to this Deed.
- 13.4 Neither the Chargee nor any Receiver will be liable to account as mortgagee in



- possession 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 may be liable.
- 13.5 Neither the Chargee nor any Receiver is obliged to take any particular action to collect any Company's Book Debts and neither shall be liable to the Companies for the manner in which it collects or fails to collect a Book Debt.
- 13.6 If the Chargee receives notice of any subsequent Security Interest affecting the Charged Assets then the Chargee may open a new account for the Companies. If it does not open a new account then, unless it notifies the Companies otherwise, it shall be treated as if it had done so at the time when it received such notice. From that time onwards all payments received by the Chargee in or towards payment of the Secured Liabilities shall be credited (or be treated as having been credited) to the new account and will not reduce the amount then due from the Companies to the Chargee.
- 14. Application of monies**
- 14.1 All money received by the Chargee or any Receiver under this Deed will be applied in the following order:
- 14.1.1 first, in or towards payment of liabilities having priority to the Secured Liabilities;
- 14.1.2 secondly, in or towards payment of all costs, charges and expenses incurred in or incidental to the exercise or performance (or attempted exercise or performance) by the Chargee the powers or authorities conferred by or in any other way connected with this Deed;
- 14.1.3 thirdly, in or towards payment to the Receiver of his remuneration fixed in accordance with this Deed;
- 14.1.4 fourthly, in or towards payment to the Chargee of the Secured Liabilities; and
- 14.1.5 fifthly, in payment of any surplus (if any) to the Companies or any other person entitled to them.
- 14.2 Any surplus shall not carry interest. The Receiver or the Chargee may pay any surplus into any of the Companies' bank accounts including an account opened specifically for such purpose. The Receivers or the Chargee shall then have no further liability for such surplus.
- 14.3 The Chargee or the Receiver may credit any monies received upon realisation of the Charged Assets to a suspense account for so long and on such basis as the Chargee or the Receiver may from time to time determine in order to preserve the Chargee's right to prove for the whole of its claim against any Company or any other person liable.
- 14.4 Subject to the rights of the holder of any prior ranking Permitted Security Interest or any landlord, any money received by the Companies under any insurance of the Charged Assets will be treated as part of the Charged Assets. It will be applied at the discretion of the Chargee either in reducing the Secured Liabilities or towards making good the loss or damage for which the money became payable. Any money received by the Companies under any insurance of the Charged Assets shall be held on trust for the Chargee pending such application.
- 15. Protection of third parties**
- 15.1 Any person dealing with the Chargee or a Receiver may assume, unless he has actual knowledge to the contrary that:
- 15.1.1 the Chargee or such Receiver has the power to do the things which they

purport to do; and

15.1.2 they are exercising their powers properly.

15.2 All the protections to purchasers by sections 104 and 107 LPA shall apply to any person purchasing from or dealing with any Receiver or the Chargee as if the Secured Liabilities had become due and the statutory power of sale and appointing a receiver in relation to the Charged Assets had arisen on the date of this Deed.

**16. Continuing and additional security**

16.1 This Deed is a continuing security. It secures the ultimate balance of the Secured Liabilities despite any interim settlement of account until a final discharge of this Deed is given by the Chargee to the Companies.

16.2 The rights of the Chargee under this Deed are in addition to any other rights they may have against the Companies (or any other person in respect of the Secured Liabilities) under any other document, the general law or otherwise. The rights of the Chargee will not merge with or limit those other rights or be limited by them.

16.3 The Chargee is not obliged to make any claim or demand on the Companies or any other person or to enforce any guarantee, mortgage or other security now or in future held by it before enforcing this and no action taken or omitted in connection with any such right or instrument shall discharge, reduce or affect the Companies' liability to the Chargee. The Chargee does not have to account for any money or other asset received pursuant to any such right or instrument.

**17. Expenses and indemnities**

17.1 The Companies will on demand pay all professionals' fees (including VAT) and any other costs, charges or expenses (on a full indemnity basis) incurred by the Chargee and any Administrator or Receiver in connection with the actual or attempted perfection, preservation, defence or enforcement of this Deed or the preservation or disposal of any Charged Assets or the exercise of any power under this Deed or any amendment, waiver, consent or release of this Deed.

17.2 The Companies will on demand indemnify the Chargee, any Administrator and any Receiver and any of its and their officers and employees and any attorney, agent or other person appointed by the Chargee under this (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against any of them at any time relating to or arising directly or indirectly out of:

17.2.1 anything done or omitted to be done in the exercise or purported exercise of the powers contained in this Deed;

17.2.2 a claim of any kind (including one relating to the environment) made or asserted against any Indemnified Party which would not have arisen if this had not been executed; or

17.2.3 any breach by the Companies of any of its obligations under this Deed, unless, in the case of 17.2.1 and 17.2.2 it was caused by the negligence or wilful misconduct of the Indemnified Party.

17.3 Neither the Chargee nor any Receiver nor any officer nor employee of either of them shall in any way be liable or responsible to the Companies for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets, except to the extent caused by its own negligence or wilful misconduct.

**18. Payments**

- 18.1 The Chargee or any Receiver may convert any money received under this Deed (including the proceeds of any previous conversion) into such currency as the Chargee or such Receiver may think fit in order to discharge the Secured Liabilities. Any such conversion shall be effected at the then prevailing spot selling rate of exchange of the Chargee's bankers for such other currency against the existing currency.
- 18.2 If the amount of the currency so converted is less than the amount of the Secured Liability concerned, the Companies will indemnify the Chargee in respect of that shortfall.
- 18.3 Any certificate signed by the Chargee as to any amount payable under this at the date of such certificate shall, in the absence of manifest error, be conclusive evidence of such amount and be binding on the Companies.
- 18.4 All amounts payable by the Companies under this Deed will be paid in full without set off or other deduction.
- 18.5 The Chargee may at any time without notice set off against any Secured Liabilities any amount owed by it to the Companies. The Chargee may effect such set off by transferring all or any part of any balance standing to the credit of any of the Companies' accounts with it to any other account or by combining or consolidating such accounts.
19. **Discharge**
- 19.1 Upon the Secured Liabilities being irrevocably and unconditionally paid or discharged in full, the Chargee will, at the request and cost of the Companies, release this Deed. The Chargee will also transfer to the Companies any Charged Assets which have been assigned or transferred to the Chargee.
- 19.2 If any payment by the Companies or any other person or any release given by the Chargee is avoided or adjusted pursuant to the Insolvency Act:
- 19.2.1 the Companies' liability for the Secured Liabilities will continue as if the payment, release, avoidance or adjustment had not occurred; and
- 19.2.2 the Chargee will be entitled to recover the value or amount of that payment or security from the Companies as if the payment, release, avoidance or adjustment had not occurred.
20. **Transfers and disclosures**
- 20.1 The Chargee may novate or assign this Deed or sub-contract or delegate its obligations or duties under it. References in this Deed to the Chargee includes its successors, assignees and transferees.
- 20.2 The Companies may not assign, transfer, delegate or make any declaration of trust of any of its rights or obligations under this Deed.
- 20.3 The Chargee may disclose any information about the Companies and any member of its group and any other person connected or associated with it to any member of the Chargee's group and/or to any person to whom it is proposing to transfer or assign or has transferred or assigned this Deed.
21. **Joint and Several Liability**
- 21.1 Unless expressly provided otherwise in this Deed, each of the Companies shall be jointly and severally liable for their respective obligations and liabilities arising under this Deed.
- 21.2 The Chargee may take action against, or release or compromise the liability of, any Company, or grant time or other indulgence, without affecting the liability of any other

Company.

**22. Transfers and disclosures**

- 22.1 The Chargee may novate or assign this Deed or sub-contract or delegate its obligations or duties under it. References in this Deed to the Chargee includes its successors, assignees and transferees.
- 22.2 The Companies may not assign, transfer, delegate or make any declaration of trust of any of its rights or obligations under this Deed.
- 22.3 The Chargee may disclose any information about the Companies and any member of its group and any other person connected or associated with it to any member of the Chargee's group and/or to any person to whom it is proposing to transfer or assign or has transferred or assigned this Deed.

**23. Third party rights**

- 23.1 Subject to Clause 23.2, a person who is not a party to this Deed shall have not rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or rely upon a provision of this Deed. No party to this Deed may hold itself out as trustee of any rights under this Deed for the benefit of any third party unless specifically provided for in this Deed.
- 23.2 The Indemnified Parties are entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this which confers (expressly or impliedly) any benefit of any such Indemnified Party.
- 23.3 The Companies and the Chargee shall not be required to obtain the consent of the Indemnified Parties to the termination or variation of this Deed or to the waiver or settlement of any right or claim arising under it.

**24. Notices**

- 24.1 Any notice, request, demand, consent, approval, notification, instructions, proceedings or other communication from the Chargee to the Companies under this Deed shall be in writing signed by or on behalf of the Chargee. Such communication shall be served by personal delivery, prepaid first class post, courier, fax or e-mail to the Companies at their respective addresses set out in this Deed, their respective registered office addresses for the time being or their respective addresses last known to the Chargee at which they carried on business. In the absence of evidence of earlier receipt, any communication served in accordance with this Clause 24.1 shall be deemed to have been received:
  - 24.1.1 if delivered personally or by courier, at the time of actual delivery to an address referred to in this Clause 24.1;
  - 24.1.2 if served by prepaid first class post, two Business Days from the date of posting; or
  - 24.1.3 if served by fax or e-mail, at the time of transmission (unless the Chargee knows or ought reasonably to have been aware of a transmission of failure).
- 24.2 Any notice, request or other communication from the Companies to the Chargee under this Deed shall be in writing and signed by or on behalf of the Companies. Such communication shall be served by prepaid first class post to the Chargee at its registered office address for the time being or such other address as the Chargee may from time to time notify to the Companies for this purpose. In the absence of evidence of earlier receipt, any communication served in accordance with this Clause 24.2 shall be deemed to have been received:
  - 24.2.1 if it is received during normal business hours on a Business Day, on

receipt; or

24.2.2 if it is received outside business hours or on a day which is not a Business Day, on the first Business Day after receipt.

## **25. General**

- 25.1 Any waiver, consent or approval given by the Chargee of or under this Deed shall only be effective if given in writing. Any such waiver, consent or approval shall then only apply for the purpose stated and be subject to any written terms and conditions imposed by the Chargee.
- 25.2 Each provision of this Deed is severable and distinct from the others. If at any time any provision of this Deed is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Deed but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Deed shall not be affected in any way.
- 25.3 If any provision of this Deed is found to be unlawful, invalid or unenforceable in accordance with Clause 25.2 but would be lawful, valid or enforceable if some part of the provisions were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it lawful, valid or enforceable.
- 25.4 No failure or delay by the Chargee in exercising a right or remedy provided by this Deed or by law does not constitute a waiver of that (or any other) right or remedy). No single or partial exercise, or non exercise or non-enforcement by the Chargee of any right or remedy provided by this or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.
- 25.5 The Chargee may release or compromise the whole or any part of the liability of any one or more of the Companies under any provision of this Deed, or grant to any Company any time or other indulgence, without affecting the liability of any other Company. No waiver by the Chargee of, or delay in enforcing, any of the provisions of this Deed shall release any Company from the full performance of its remaining obligations under this Deed.
- 25.6 The rights, powers and remedies of the Chargee contained in this Deed are cumulative and not exclusive of any rights, powers or remedies provided by law.
- 25.7 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall be an original. All the counterparts shall together constitute one and the same Deed, which shall be deemed executed when counterparts executed by the Chargee and all of the Companies are delivered.

## **26. Governing law and jurisdiction**

- 26.1 This Deed shall be governed by and interpreted in accordance with English law. Non-contractual obligations (if any) arising out of or in connection with this Deed (including its formation) shall be governed by English law.
- 26.2 The Companies and the Chargee agree to submit to the exclusive jurisdiction of the English Courts in relation to any claim or matter (whether contractual or non-contractual) arising under this Deed.
- 26.3 Each of the Companies and the Chargee irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Deed (including non-contractual disputes and claims) and agrees not to claim that the courts of England are not a convenient or

appropriate forum.

**THE COMPANIES** have executed this Deed as a deed and delivered it on the date first set out above.

**Schedule 1**  
**Registered land**

**Description and title numbers**

**Schedule 2**  
**Companies**

<b>Name</b>	<b>Registered number</b>	<b>Registered office</b>
T&H Design Limited	04304909	c/o RSM Tenon Limited, 3 Hollinswood Court, Stafford Park 1, Telford, Shropshire, TF3 3DE
Ackery Brands Limited	08096721	Ryton Farm House, Ryton, Shifnal, Shropshire, TF11 9JL

EXECUTION

THE COMPANIES

EXECUTED and DELIVERED as a )  
DEED by T&H DESIGN LIMITED )  
acting by a director in the presence )  
of: )

Director

Witness

Name ROSANNA CROWTHER

Address

Occupation

EXECUTED and DELIVERED as a )  
DEED by ACKERY BRANDS )  
LIMITED acting by a director in the )  
presence of: )

Director

Witness

Name ROSANNA CROWTHER

Address

Occupation



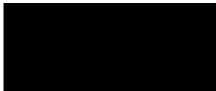
**THE CHARGE**

**EXECUTED** and **DELIVERED** as a )  
**DEED** by **MANTUA CAPITAL** )  
**LIMITED** acting by a director in the )  
presence of: )  
)  
)



Director

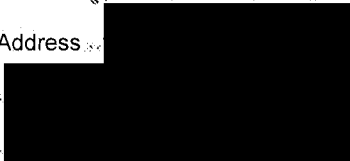
Witness



Name

*Jacob Robinson*

Address



Occupation

