



**Registration of a Charge**

Company name: **CONEXPO (NI) LIMITED**

Company number: **NI025270**

Received for Electronic Filing: **10/03/2020**



X90HWZKY

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**Details of Charge**

Date of creation: **04/03/2020**

Charge code: **NI02 5270 0005**

Persons entitled: **CES QUARRY PRODUCTS LIMITED**

Brief description: **SECOND LEGAL CHARGE OVER THE LAND AND PREMISES SITUATE AT 124 CROSSGAR ROAD, SAINTFIELD, BEING ALL THAT PIECE OR PARCEL OF LAND COMPRISED IN FOLIOS 18344, 29004, 18403, 14465, DN161576, DN192539, DN139486, 32360, DN28571, DN33942, DN161238 & DN137761 COUNTY DOWN**

**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 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:

**WILSON NESBITT SOLICITORS**



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

Company number: NI25270

Charge code: NI02 5270 0005

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 4th March 2020 and created by CONEXPO (NI) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th March 2020 .

Given at Companies House, Belfast on 10th March 2020

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 THE 6th DAY OF March 2020

**CES QUARRY PRODUCTS LIMITED (1)**

and

**CONEXPO (NI) LIMITED (2)**

## **MORTGAGE AND CHARGE**

We hereby certify this to be a true  
and accurate copy of the original

Dated this 6th day of March 2020

Signed C. Russell  
Solicitor

Hewitt & Gilpin Solicitors  
144 High Street  
Holywood  
BT18 9HS

FOLIOS: 18344, 29004, 18403, 14465, DN161576, DN192539, DN139486, 32360,  
DN28571, DN33942, DN161238, DN137761

COUNTY: DOWN

REGISTERED OWNER: CONEXPO (NI) LIMITED

This MORTGAGE AND CHARGE is dated 4th March 2020 and made  
BETWEEN:

- (1) **CES QUARRY PRODUCTS LIMITED** (company number NI005383) whose registered office is Doran's Rock, 124 Crossgar Road, Saintfield, Ballynahinch, County Down, BT24 7JQ (the **Lender**); and
- (2) **CONEXPO (NI) LIMITED** (company number NI025270) whose registered office is care of RSM Northern Ireland, 1 Lanyon Quay, Belfast BT1 3LG (the **Borrower**).

WHEREAS

- (A) The Borrower is now seized and possessed of or otherwise entitled to the hereditaments and premises described in Part I of the Schedule hereto (hereinafter referred to as the "**Property**" which term shall include any part or parts of such hereditaments and premises and all rights attached or appurtenant thereto) and is the registered owner of such part or parts thereof as are registered in the Land Registry of Northern Ireland.
- (B) By a contract for sale of even date made between the parties hereto ("the Sale Contract") the Lender has agreed to lend to the Borrower the sum of £1,000,000 ("the Advance") having the repayment thereof secured on the terms and conditions set out in this Mortgage and Charge.

NOW THIS DEED WITNESSES and it is hereby agreed and declared as follows:

1. **DEFINITIONS AND INTERPRETATIONS**

1.1 **Definitions**

In this Mortgage and Charge:

'1881 Act' means the Conveyancing and Law of Property Act 1881.

'Mortgage and Charge' means this mortgage and charge and includes any instrument supplemental to or which is expressed to be collateral or entered into pursuant to or in accordance with the terms of this legal charge.

'Charged Assets' means the property mortgaged or charged to the Lender by this Mortgage and Charge and includes any part of or interest therein and, for the

avoidance of doubt, includes the Property.

'Encumbrance' means any mortgage charge pledge lien assignment hypothecation security interest preferential right or trust arrangement or other encumbrance security agreement or arrangement of any kind or any right conferring a priority of payment.

'Enforcement Event' means any of the events or circumstances described in clause 9.

'Expenses' means all costs charges and expenses which the Lender or any Receiver may acting reasonably charge or reasonably incur in relation to any material breach by the Borrower of any provision of, and the enforcement of, this Mortgage and Charge in each case on a full indemnity basis.

'Lease' means where the Property is leasehold the lease under which the Borrower holds the Property.

'Planning Orders' means the Planning (Northern Ireland) Order 1991, the Planning Act (Northern Ireland) 2011 and all regulations and orders made or confirmed thereunder.

'Receiver' means a receiver and/or manager or receivers and any substitute for any such person and whether appointed under this Mortgage and Charge or pursuant to any statute or otherwise.

'Secured Liabilities' means the Advance and any costs which are now or at any time hereafter may become due owing or incurred by the Borrower to the Lender and all Expenses

## **1.2 Interpretation**

In this Mortgage and Charge:

- (a) references to Clauses and Schedules are to be construed as references to the clauses of and schedules to this Mortgage and Charge;
- (b) references to any provisions of this Mortgage and Charge or to any other document or agreement are to be construed as references to those provisions or that document or agreement as is in force for the time being and as amended, varied, supplemented, substituted or novated from time to time;
- (c) words importing the singular are to include the plural and vice versa;
- (d) references to a person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity;
- (e) references to any person are to be construed to include that

person's assigns or transferees or successors in title, whether direct or indirect;

- (f) references to any statutory provision are to be construed as references to that statutory provision as amended, supplemented, re-enacted or replaced from time to time (whether before or after the date of this Mortgage and Charge) and are to include any orders regulations instruments or other subordinate legislation made under or deriving validity from that statutory provision;
- (g) Clause headings are for ease of reference only and are not to affect the interpretation of this Mortgage and Charge.

## 2. COVENANT TO PAY

The Borrower covenants with the Lender that the Borrower will repay the Advance to the Lender within 24 months of the date of this Mortgage and Charge.

## 3. SECURITY

3.1 The Borrower as beneficial owner and as continuing security for the payment and discharge of the Secured Liabilities hereby:

- (a) demises unto the Lender such of the Property as is not registered in the Land Registry TO HOLD such of the same as are of freehold tenure unto the Lender for the term of 1,000 years from the date hereof and TO HOLD such of the same as are of leasehold tenure unto the Lender for the residue of the respective terms of years for which the Borrower now holds the same respectively (less the last 3 days of each of the such terms) subject as to all such Property to the proviso for redemption set out in clause 5 (*Discharge*) hereof provided that the Borrower shall stand possessed of the reversion immediately expectant on the term of years hereby granted in any freehold and leasehold land hereby mortgaged in trust for the Lender and shall assign, convey or dispose of the same as the Lender may direct (subject to the said proviso for redemption) and the Lender may at any time during the continuance of the security hereby created remove the Borrower or any other person, persons or body corporate from being a trustee of the trust declared by this clause and on the removal of the Borrower or such other person, persons or body corporate appoint a new trustee or trustees in the Borrower's, their or its place;
- (b) as registered owner, charges to the Lender such of the Property as is registered in the Land Registry with payment performance and discharge of the Secured Liabilities and hereby assents to the registration of the charge as a burden on the said lands.
- (c) charges in favour of the Lender all buildings fixtures and fittings now or from time to time placed on or used in or about the Property and

belonging to the Borrower.

- 3.2 The mortgages or charges created by clauses 3.1(a), 3.1(b) and 3.1(c) shall constitute fixed mortgages and charges.
- 3.3 The Borrower shall promptly on demand and at its own cost execute and do all such assurances acts and things including without limitation execute all transfers conveyances assignments and assurances of the Charged Assets and give all notices orders and directions which the Lender may reasonably require for perfecting or protecting this Mortgage and Charge or the priority of this Mortgage and Charge or for facilitating the realisation of the Charged Assets or the exercise of any of the rights vested in the lender or any Receiver.

#### **4. FURTHER ADVANCES**

This Mortgage and Charge is intended to secure further advances but the Lender is not obliged to make them.

#### **5. DISCHARGE**

If the Borrower shall repay the Advance to the Lender in accordance with the covenants contained in this Mortgage and Charge the Lender at the request and cost of the Borrower will duly discharge this Mortgage and Charge, PROVIDED ALWAYS that the Borrower may repay the Advance at any time within 24 months following the date of this deed without penalty and immediately upon repayment the Lender shall execute and deliver to the Borrower a valid deed of release in relation to this Mortgage and Charge.

#### **6. RESTRICTIONS**

The Borrower shall not without the prior written consent of the Lender:

- (a) create or permit to subsist or arise any Encumbrance or any right or option on the Charged Assets or any part thereof. Subject as aforesaid, any mortgage of or charge on the Charged Assets created by the Borrower (otherwise than in favour of the Lender) shall be expressed to be subject to this Mortgage and Charge;
- (b) sell, convey, assign or transfer the Charged Assets or any interest therein or otherwise part with or dispose of any Charged Assets (other than as described in clause 6 (d) below) or assign or otherwise dispose of any monies payable to the Borrower in relation to the Charged Assets agree to do any of the foregoing;
- (c) exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors or chargeants by common law or by statute or accept the surrender of any lease, underlease or tenancy or agree to do any of the foregoing;



- (d) other than to the Lender, part with or share possession or occupation of the Property or any part of it or grant any tenancy or licence to occupy the Property or agree to do any of the foregoing;

## 7. COVENANTS BY THE BORROWER

The Borrower covenants with the Lender at all times during the continuance of this security:

- (a) Repair

To keep the buildings installations and structures (whether fully built or in course of construction) and all fixtures fittings equipment utensils implements furniture plant and machinery therein or thereon and other erections from time to time upon the Property in good and substantial repair and condition (fair wear and tear excepted in the case of plant and machinery) and fully protected from damage or deterioration as a result of weather or malicious damage or any other cause and to replace any fixtures fittings equipment utensils implements furniture plant and machinery which have become worn out or otherwise unfit for use by others of a like nature and equal value.

- (b) Insurance

[Not used]

- (i) .

- (c) Outgoings

[Not used]

- (d) Covenants and stipulations

To perform and observe all covenants, restrictions, stipulations, provisions, regulations and conditions affecting the Property or the use or enjoyment of it.

- (e) Alterations

Not without the previous written consent of the Lender to demolish pull down remove or permit or suffer to be demolished pulled down or removed any building installation or structure for the time being upon the Property or except in connection with the renewal or replacement thereof any fixtures or erect or make or suffer to be erected or made on the Property any building installation structure or alteration or a change of use thereof within the meaning of the Planning Orders or otherwise commit any waste upon or destroy or injure in any manner or by any means lessen or suffer to be lessened the value of the Property.

- (f) Development

Where at the date of this Mortgage and Charge or at any time during the continuance of this security the Property or any part of it is intended to be developed or is in the course of development, to proceed diligently and to the satisfaction of the Lender and any competent authority with such development in all respects in conformity with the planning and bye-law consents therefor and to produce all plans and specifications in relation to such development to the Lender for approval and not to amend such plans and specifications in any manner which might diminish the finished value (or increase the cost to a material extent) without the Lender's approval.

(g) Planning

- (i) to comply in all respects with the Planning Orders and all licences, consents, permissions or conditions granted or imposed thereunder;
- (ii) to comply with the requirements of any valid enforcement or other notice or order (whether issued under the Planning Orders or any other statute) within such time as may be specified therein or if no time is specified within such period as may be required by the Lender and to pay to the Lender in reduction of the Secured Liabilities any compensation received as a result of any such notice or order.

(h) Right of Entry

To permit representatives of the Lender with or without workmen or others to enter the Property at all reasonable times to view the state of repair and condition of the Property;

(i) Information

On request to produce to or provide for the Lender such documents or information relating to the Property or its development as the Lender may reasonably require;

(j) Statutes

To comply (in all material respects) with all obligations imposed under any present or future statute regulation order or instrument or under any bye-laws regulations or requirements of any competent authority or approvals licences or consents relative to the Property or its use or enjoyment or to the Business;

(k) Leases

Where the Property is leasehold or subject to any lease agreement for lease or tenancy (referred to below as an 'occupational lease'):

- (i) to perform and observe all covenants and conditions contained in the Lease to be performed and observed by the lessee or contained in any occupational lease to be observed by the lessor;

- (ii) to enforce the due observance and performance of all obligations of all other parties to the Lease and any occupational lease;
- (iii) not to waive, release or vary any of the terms of the Lease or any occupational lease or exercise any power to determine or extend the same or grant any consent or licence or conclude any rent review under the same without, in each case, the consent of the Lender which consent is not to be unreasonably withheld or delayed in circumstances in which the Borrower may not unreasonably withhold or delay its consent;

(l) Agreements

To notify the Lender forthwith if a third party is in breach of the terms of any of the Agreements and/or if notice is given to terminate any of them or it is alleged or appears that any of them may be avoided or repudiated or be or become invalid or unenforceable and in any such case shall at its own cost take such action or institute such proceedings or execute such documents as the Lender may require.

(m) Indemnity

To keep the Lender (and any Receiver appointed by the Lender) fully and effectively indemnified from and against all actions, proceedings, costs, charges, claims, demands, expenses and liabilities (including Value Added Tax and any other taxes and/or legal and other professional fees) whatsoever in respect of any breach or non-observance or non-performance of any covenants obligations warranties or undertakings on the part of the Borrower contained in this Mortgage and Charge or the making good of any such breach or non-observance or non-performance.

## 8. POWER TO REMEDY

8.1 If the Borrower fails to perform or observe any covenant or condition in its part contained in this Mortgage and Charge, it shall be lawful for but not obligatory upon the Lender in order to make good such failure in whole or in part and at the Borrower's cost:

- (a) to enter upon the Property and effect such repairs and other works thereon as the Lender considers necessary;
- (b) to take such steps, give such notices, execute such works and do such things as the Lender reasonably considers necessary to comply with any requirements of or any notice, order, direction permission or proposal, given, served or made under the Planning Orders or otherwise affecting or likely to affect the Property or its value;
- (c) to admit, settle, liquidate, compound or contest in such manner as the Lender thinks fit any claim or liabilities in relation to the Property whether or not the Lender is expressly indemnified in this Mortgage and Charge against the same and to make such payments and expend or

debit on account such monies as the Lender reasonably considers necessary in that behalf but without thereby becoming a mortgagee in possession.

## 9. ENFORCEMENT EVENTS

If any of the following events shall occur then the Advance shall become immediately due and repayable at any time on demand by the Lender, the Lender shall cease to be under any further obligation to the Borrower and may in its absolute discretion enforce all or any part of the security constituted by or pursuant to this Mortgage and Charge in any manner it sees fit or as provided for in this Mortgage and Charge:

- (a) the Borrower fails to repay the Advance within 24 months of the date of this Mortgage and Charge when due;
- (b) the Borrower commits any material breach of any of the covenants or any other provisions of this Mortgage and Charge or the Sale Contract and either such breach is in the reasonable opinion of the Lender not capable of remedy or such breach is in the reasonable opinion of the Lender capable of remedy and is not remedied within a reasonable period of time after the date of notice by the Lender requiring such remedy;
- (c) any representation or warranty made or deemed to be made or repeated by the Borrower in or pursuant to this Mortgage and Charge is or proves to have been untrue or incorrect in any material respect when made or when deemed to be repeated with reference to the facts and circumstances existing at such time;
- (d) any Encumbrance on or over the business assets rights or revenues of the Borrower becomes enforceable;
- (e) an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the assets, undertaking, rights or revenues of the Borrower or process is levied or enforced upon any of the assets rights or revenues of the Borrower;
- (f) the Borrower is, or is adjudicated or found to be bankrupt, insolvent or suspends payment of its debts or is (or is deemed to be) unable to or admits inability to pay its debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Borrower under any law regulation or procedure relating to reconstruction or adjustment of debts;
- (g) (in the case of an individual or individuals) any bankruptcy petition is presented in respect of the Borrower or the Borrower is, or is adjudicated or found to be bankrupt;
- (h) the Borrower (in the case of an individual or individuals) shall die or become mentally incapacitated;
- (i) (in the case of a company) a petition is presented by any person for an administration order in relation to the Borrower;

- (j) (in the case of a company) any petition is presented by any person and/or any order is made by any competent Court or any resolution is passed by the Borrower for its winding-up or dissolution or for the appointment of a liquidator of the Borrower;
- (k) if an order for compulsory acquisition or requisition of the Property shall be made and confirmed and the same shall in the opinion of the Lender materially affect the value of the Property as a whole;

## **10. ENFORCEMENT**

Sections 20 and 24 of the 1881 Act shall not apply to this Mortgage and Charge and the statutory powers of sale and appointing a Receiver under Sections 19 and 24 of the 1881 Act (as varied and extended under this Mortgage and Charge) shall arise on the execution of this Mortgage and Charge and shall become immediately exercisable without the restrictions contained in the 1881 Act as to the giving of notice or otherwise at any time after the Lender shall have demanded payment of any of the Advance or after any breach by the Borrower of any of the provisions of this Mortgage and Charge or the occurrence of an Enforcement Event.

## **11. APPOINTMENT AND POWERS OF RECEIVER**

- 11.1 At any time after the Lender shall have demanded payment of any of the Advance or after any breach by the Borrower of any of the provisions of this Mortgage and Charge or the occurrence of an Enforcement Event or if requested by the Borrower, the Lender may appoint by writing any person or persons (whether an officer of the Lender or not) to be a Receiver of all or any part of the Charged Assets and where more than one Receiver is appointed they may be given power to act either jointly or severally.
- 11.2 The Lender may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another in its place.
- 11.3 The Receiver shall (so far as the law permits) be the agent of the Borrower (who shall alone be personally liable for his acts, defaults, omissions and remuneration) and shall have and be entitled to exercise all powers conferred by the 1881 Act in the same way as if the Receiver had been duly appointed thereunder and in particular by way of addition to, but without limiting any general powers referred to above (and without prejudice to any of the Lender's powers) the Receiver shall have power in the name of the Borrower or otherwise to do the following things, namely:
  - (a) to take possession of collect and get in all or any part of the Charged Assets and for that purpose to take any proceedings as he shall think fit;
  - (b) to commence and/or complete any building operations on the Property and to apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licences in

each case as he may in his absolute discretion think fit;

- (c) for the purpose of exercising any of the rights, powers, authorities and discretions conferred on him by or pursuant to this Mortgage and Charge or for any other purpose to borrow monies from the Lender or others on the security of the Charged Assets or otherwise on such terms as he may in his absolute discretion think fit;
- (d) to provide such facilities and services for tenants and generally to manage the Charged Assets in such a manner as he shall think fit;
- (e) if the Property is leasehold to vary the terms of or surrender any lease and/or to take a new lease of it or of any part of it on such terms as he shall think fit and so that any such new lease shall ipso facto become charged to the Lender on the terms of this Mortgage and Charge so far as applicable and to execute a formal legal charge over any such new lease in favour of the Lender in such form as the Lender may reasonably require;
- (f) to sell, transfer, assign, let or lease or concur in selling, letting or leasing the Property or any part of it and the grant of any rights over the Property (either by public auction or private contract or otherwise) on such terms and conditions and for such consideration including without limitation shares, securities (of any other Borrower) or other investments payable at such time or times as he may in his absolute discretion think fit;
- (g) to vary the terms of, terminate, grant renewals of or accept surrenders of leases or tenancies of the Property or any part of it in such manner and for such terms with or without a premium or other compensation or consideration including the payment of money to a lessee or tenant on a surrender with such rights relating to other parts of the Property and containing such covenants on the part of the Borrower or otherwise and generally on such terms and conditions as in his absolute discretion he shall think fit;
- (h) to make any arrangements or compromise which the Lender or as he shall think fit whether in relation to any lease of the Property or to any covenants, conditions or restrictions relating to the Property or without limitation otherwise;
- (i) to make and effect all repairs and improvements;
- (j) to enter into bonds, covenants, commitments, guarantees, indemnities and like matters and to make all payments needed to effect, maintain or satisfy the same;
- (k) to settle adjust refer to arbitration compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Borrower or relating in any way to the Charged Assets ;

- (l) to effect such insurances of or in connection with the Charged Assets as he shall in his absolute discretion think fit;
- (m) to appoint managers officers contractors and agents for the aforesaid purposes upon such terms as to remuneration or otherwise as he may determine;
- (n) to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he lawfully may or can do.

Provided nevertheless that the Receiver shall not be authorised to exercise any of the above powers if and insofar and so long as the Lender shall in writing exclude the same whether in or at the time of his appointment or subsequently.

11.4 Any monies received by the Receiver in the exercise of his powers under this Mortgage and Charge and under general law shall be (so far as the law permits) applied by him as follows:

- (a) in payment of the reasonable costs, charges and expenses of and incidental to his appointment and the exercise of all or any of his powers;
- (b) in payment of his reasonable remuneration;
- (c) in repayment to the Lender of the Advance.

and any balance shall be paid to the person or persons entitled to it.

## **12. LENDER'S LIABILITY**

12.1 In no circumstances shall the Lender be liable to account to the Borrower as a mortgagee in possession or otherwise for any monies not actually received unconditionally and irrevocably by the Lender.

## **13. PROTECTION OF THIRD PARTIES**

Any purchaser or any other person dealing with the Lender or any Receiver shall not be concerned to enquire whether the Advance has become payable or whether any power which it or he is purporting to exercise has become exercisable or whether any money is due under this Mortgage and Charge or as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with the Lender or such Receiver. All the protection to purchasers contained in Sections 21 and 22 of the 1881 Act shall apply to any person purchasing from or dealing with the Lender or any Receiver.

## **14. POWERS OF LEASING**

The statutory powers of sale leasing and accepting surrenders exercisable by the

Lender are hereby extended so as to authorise the Lender whether in the name of the Lender or in that of the Borrower to grant a lease or leases of the whole or any part or parts of the Property with such rights relating to other parts of it and containing such covenants on the part of the Borrower and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Lender (in its absolute discretion) shall think fit.

## **15. POWER OF ATTORNEY**

15.1 The Borrower hereby irrevocably appoints the Lender and the Receiver jointly and also severally the Attorney and Attorneys of the Borrower for the Borrower and either in the name of the Lender or the Receiver (as the case may be) or in the name and on behalf of the Borrower and as the act and deed of the Borrower or otherwise to sign seal and deliver execute as a deed and otherwise perfect any deed assurance agreement instrument or act which may be required or may be deemed proper for any of the purposes referred to in or otherwise in connection with this Mortgage and Charge including without limitation to convey or assign any freehold or leasehold reversion in the Property to a purchaser thereof or to his heirs, executors, administrators and assigns or as he or they shall direct. The Borrower ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under this Clause properly does or purports to do in the exercise of all or any of the powers, authorities and discretions granted or referred to in this Mortgage and Charge.

15.2 The power of attorney hereby granted is irrevocable and for value as part of the security constituted by this Mortgage and Charge.

## **16. LENDER'S RIGHTS**

16.1 At any time after this Mortgage and Charge becomes enforceable all powers of the Receiver may be exercised by the Lender whether as attorney of the Borrower or otherwise.

16.2 The Borrower agrees that at any time after this Mortgage and Charge becomes enforceable:

- (a) upon any sale or other disposition in exercise of the powers contained or implied by this Mortgage and Charge the Lender may sever any fixtures (other than trade machinery within the meaning of the Bills of Sale Act (Ireland) 1879 and Bills of Sale (Ireland) Act (1879) Amendments Act 1883) from the Property and sell the same apart from the Property without taking possession of the Property and apply the net proceeds of such sale in or towards repayment of the Advance;
- (b) the Lender may as agent of the Borrower remove and sell any chattels on the Property which belong to the Borrower and the Lender shall have the right to retain or set-off such proceeds of sale against any indebtedness of the Borrower to the Lender;
- (c) it shall be lawful for the Lender to enter into any arrangement or accept any composition in relation to the debts hereby charged without the



concurrence of the Borrower and any such arrangement or composition shall be binding on the Borrower.

## **17. COSTS AND EXPENSES**

17.1 The Borrower shall, on demand pay to the Lender:

- (a) the amount of all proper and reasonable costs and expenses (including legal and out-of-pocket expenses and any Value Added Tax on such costs and expenses) which the Lender and any Receiver appointed by the Lender incurs in connection with:
  - (i) any actual or proposed amendment of or waiver or consent under or in connection with this Mortgage and Charge;
  - (ii) the preservation or exercise (or attempted preservation or exercise) of any rights under or in connection with, and the enforcement (or attempted enforcement) of, this Mortgage and Charge and any related document;
  - (iii) obtaining payment of the Secured Liabilities where the Borrower is in default;
- (b) all other monies paid by the Lender in perfecting or otherwise in connection with this Mortgage and Charge or in respect of the Charged Assets including without limitation all monies expended by the Lender under clause 8 and all monies advanced or paid by the Lender to any Receiver for the purposes set out in clause 11.

17.2 Such costs expenses and other monies shall be recoverable from the Borrower as a debt and shall be charged on the Charged Assets .

## **18. CONTINUING SECURITY**

18.1 This Mortgage and Charge shall be a continuing security to the Lender until repayment of the Advance notwithstanding any settlement of account or other matter or thing whatsoever and shall be in addition to and shall not prejudice or affect or be prejudiced or affected by any security relating to the Charged Assets or to any other property or any other security which the Lender may now or at any time in the future hold in respect of the Secured Liabilities or any of them and shall continue in full force and effect as a continuing security until discharged.

18.2 The continuing nature of the security hereby created shall not be determined or affected by notice to the Lender of the death or mental incapacity of the Borrower.

18.3 Section 17 of the 1881 Act shall not apply to this Mortgage and Charge.

## **19. SET-OFF**

**[NOT USED]**

**20. NOTICES**

20.1 Every notice demand or other communication under this Mortgage and Charge shall be in writing and may be delivered personally or by letter or facsimile transmission despatched as follows:

(a) if to the Borrower, to its registered office;

(b) if to the Lender, to the address of the first named Trustee/Lender;

or to such other address as may be notified in accordance with this Clause by the relevant party to the other party for such purpose.

20.2 Every notice demand or other communication shall be deemed to have been received (if sent by post) 24 hours after despatch and (if delivered personally or despatched by facsimile transmission) at the time of delivery or despatch if during normal business hours in the place of intended receipt on a working day in that place and otherwise at the opening of business in that place on the next succeeding such working day.

20.3 Any notices demands or other communication as aforesaid to be given by the Lender may be made by any officer of the Lender or by any person or firm acting as solicitor or solicitors for the Lender.

**21. TRANSFERS**

21.1 This Mortgage and Charge is freely assignable or transferable by the Lender.

21.2 The Borrower may not assign or transfer any of its obligations under this Mortgage and Charge or enter into any transaction which would result in any of those obligations passing to another person.

21.3 The Lender may disclose to any person related to the Lender and/or any person to whom it is proposed to transfer to assign or has transferred or assigned this Mortgage and Charge any information about the Borrower and the Business.

**22. MISCELLANEOUS**

22.1 No delay or omission on the part of the Lender in exercising any right or remedy under this Mortgage and Charge shall impair that right or remedy or operate as or be taken to be a waiver of it; nor shall any single partial or defective exercise of any such right or remedy preclude any other or further exercise under this Mortgage and Charge of that or any other right or remedy.

22.2 The Lender's rights under this Mortgage and Charge, are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Lender deems expedient.

22.3 Any waiver by the Lender of any terms of this Mortgage and Charge, or any

consent or approval given by the Lender under it, shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.

- 22.4 If at any time any one or more of the provisions of this Mortgage and Charge is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality validity or enforceability of the remaining provisions of this Mortgage and Charge nor the legality validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.

## 23. LAW AND JURISDICTION

- 23.1 This Mortgage and Charge is governed by and shall be construed in accordance with the law of Northern Ireland.
- 23.2 The Borrower irrevocably agrees for the exclusive benefit of the Lender that the Courts of Northern Ireland shall have jurisdiction to hear and determine any suit action or proceeding, and to settle any dispute, which may arise out of or in connection with this Mortgage and Charge and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 23.3 Nothing contained in this Clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 23.4 The Borrower irrevocably waives any objection which it may have now or in the future to the Courts of Northern Ireland being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

**IN WITNESS** whereof this Mortgage and Charge has been duly executed as a deed and is intended to be and is delivered on the date first above written.

**THE SCHEDULE**

**Part I**

**The Property**

**ALL THAT AND THOSE** the land and premises situate at 124 Crossgar Road, Saintfield, being **ALL THAT** piece or parcel of land comprised in Folios 18344, 29004, 18403, 14465, DN161576, DN192539, DN139486, 32360, DN28571, DN33942, DN161238, DN137761 County Down.

**EXECUTED by CES QUARRY PRODUCTS LIMITED**


In the presence of a witness:



Neil Logan  
Solicitor - Partner  
Wilson Nesbitt Solicitors  
36 Alfred Street  
Belfast BT2 8EP  
Tel: 02890 323864

**EXECUTED by CONEXPO (NI) LIMITED**

In the presence of a witness:



C. Russell  
Solicitor -

Hewitt & Gilpin Solicitors Limited  
Thomas House  
14-16 James Street South  
Belfast  
BT2 7GA