



Registration of a Charge

Company Name: **CARLANE LIMITED**

Company Number: **NI613655**



XCVZ31SX

Received for filing in Electronic Format on the: **01/02/2024**

Details of Charge

Date of creation: **31/01/2024**

Charge code: **NI61 3655 0006**

Persons entitled: **DIAGEO NORTHERN IRELAND LIMITED**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **TUGHANS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI613655

Charge code: NI61 3655 0006

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 31st January 2024 and created by CARLANE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st February 2024 .

Given at Companies House, Belfast on 1st February 2024

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

31 January

2024

(1) CARLANE LIMITED

(2) DIAGEO NORTHERN IRELAND LIMITED

DEBENTURE

governed by the laws of Northern Ireland

We hereby certify that this is
a true copy of the original

Dated

1 February 2024

Tughans LLP,
The Ewart,
3 Bedford Square,
Belfast BT2 7EP
Northern Ireland

LAND REGISTRY OF NORTHERN IRELAND

FOLIO:

COUNTY:

This **DEBENTURE** is made as a **DEED** and dated 31 January 2026
BETWEEN

(1) **"Chargor"**

Name: Carlane Limited
Jurisdiction of incorporation: Northern Ireland
Company number: NI613655
Registered address: 9 Upper Crescent, Belfast, BT7 1NT

and

(2) **"Diageo"**

Name: Diageo Northern Ireland Limited
Jurisdiction of incorporation: Northern Ireland
Company number: NI003755
Registered address: Third Floor Capital House, 3 Upper Queen Street, Belfast

WHEREAS

- (A) The Chargor is or may in the future become indebted to Diageo (whether as principal debtor or as guarantor, surety or in any other capacity whatsoever).
- (B) As security for the payment and discharge of all Obligations of the Chargor to Diageo, the Chargor has agreed to provide Diageo with a mortgage debenture on the terms more particularly set out herein.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed:

"Accounts" shall have the meaning given to that term in Clause 3.2.4(k);

"Administrator" means one or more administrators of the Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law;

"Administrative Receiver" means one or more administrative receivers of the Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law;

"Advisers" means each of the professional advisers of Diageo engaged by Diageo to advise in respect of any matters connected with the Chargor or any Diageo Document to include Diageo's legal, financial, environmental, tax, property, construction, planning and other advisers and the term **"Adviser"** means any one or more of them as the context may require or admit;

"Business Day" means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general business in Belfast;

"Business Licence" shall have the meaning given to that term in Clause 3.2.4(p);

"Chattels" shall have the meaning given to that term in Clause 3.2.4(f);

"Collateral Security" shall have the meaning given to that term in Clause 3.2.4(d);

"Contracts" shall have the meaning given to that term in Clause 3.2.4(j);

"Construction Rights" shall have the meaning given to that term in Clause 3.2.4(e);

"Criminal Damage Compensation" shall have the meaning given to that term in Clause 3.2.4(r);

"Debts" shall have the meaning given to that term in Clause 3.2.4(n);

"Default Rate" means:

- (a) any rate identified in any Diageo Document as the rate of interest applying upon a default of the relevant principal obligor (whether or not that rate is described as the "default rate" of interest or otherwise) and in the event of more than one such rate being applicable, the highest of such rates; or
- (b) in the absence of such rate being so specified, the rate being two per cent. per annum above any rate of interest applicable to any Diageo Document and, in the event of more than one such rate being applicable, the highest of such rates; or
- (c) in the absence of either of the foregoing rates being so specified, the rate being two per cent. per annum above the Bank of England's Official Bank Rate (or, if that rate ceases to exist, the nearest equivalent interest rate set by the Bank of England or by any central bank or monetary authority which replaces the Bank of England);

"Delegate" means any person appointed by Diageo or any Receiver pursuant to Clause 16 (*Delegation*) and any person appointed as attorney of Diageo, any Receiver or any Delegate;

"Deposit" shall have the meaning given to that term in Clause 3.2.4(l);

"Diageo Document" means:

- (a) this Deed;
- (b) each and every trading and loan agreement, facility letter, facility agreement, loan agreement, letter of offer, interest subsidy agreement, loan note, promissory note, bond, letter of credit, facility for a guarantee or indemnity, hedging or other derivative agreement or any other agreement or instrument which is similar to or analogous to any of the foregoing (and, for the avoidance of doubt, including each agreement, deed, instrument, document or other arrangement entered into by Diageo relating to the terms of trading and/or the supply of goods and/or services by Diageo) pursuant to which Diageo has made available credit or other financial accommodation of whatsoever nature to (i) the Chargor and/or (ii) any other person where the Chargor has (either directly or indirectly) agreed to guarantee, indemnify or otherwise grant collateral security for the Obligations of that other person; and
- (c) each and every document or arrangement creating or evidencing (i) a Security Interest or (ii) a guarantee, indemnity or other contract of suretyship in each case which secures or guarantees or indemnifies the payment or discharge of any Obligations arising under any Diageo Document;

"Disposal" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of a Security Interest and the term "Dispose" shall be construed accordingly;

"Enforcement Time" means any time at which an Event of Default has occurred;

"Environment" means all of the air, water and land, including (without limitation) the air within buildings and the air within other natural or man-made structures above or below ground, ground and surface water and surface and sub-surface soil;

"Environmental Law" means all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the Environment that affects the Secured Assets;

"Event of Default" means the occurrence of any one of more of the following:

- (a) if any of the Secured Obligations are not paid or otherwise discharged in the manner and on the due date for same; or
- (b) the happening of an event which constitutes a breach of any term of a Diageo Document or an event of default (howsoever described) in any Diageo Document; or
- (c) the happening of any event under any Diageo Document whereby the Obligations arising under that Diageo Document become immediately due and payable;
- (d) the holder of a Liquor Licence is convicted of any offence under the Licensing Order; or
- (e) the holder of a Liquor Licence shall do any act or thing or fail to do any act or thing whereby the Liquor Licence (or any part thereof) may be lost or forfeited or (in the opinion of Diageo) endangered (whether for the purposes of the Licensing Order or otherwise);

"Financial Collateral" shall have the meaning given to that expression in the Financial Collateral Regulations;

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226);

"Fixed Charge Receiver" means one or more receivers or managers appointed, or to be appointed, under this Deed or under any applicable provision of law who is not an Administrative Receiver;

"Insolvency Event" in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, administration, provisional administration, administrative receivership, receivership, examinership or bankruptcy of that person or the entering into by that person of any compromise, voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than Northern Ireland; or
- (c) any other form of procedure relating to insolvency, bankruptcy, reorganisation or dissolution in any jurisdiction;

"Insolvency Legislation" means:

- (a) the Insolvency (Northern Ireland) Order 1989 and any legislation, rules or regulations made under it; and
- (b) any other primary or secondary legislation, rules or regulations in Northern Ireland from time to time relating to insolvency, bankruptcy, reorganisation or dissolution;

"Insurances" shall have the meaning given to that term in Clause 3.2.4(h);

"Insurance Proceeds" shall have the meaning given to that term in Clause 3.2.4(i);

"Intellectual Property" shall have the meaning given to that term in Clause 3.2.4(m);

"Investments" shall have the meaning given to that term in Clause 3.2.4(g);

"Licensed Premises" shall mean the premises in respect of which a Liquor Licence is granted and any other premises that may be used by the holder of that Liquor Licence in connection with the business authorised to be carried on under that Liquor Licence;

"Licensing Order" means The Licensing (Northern Ireland) Order 1996 and any reference in this Deed to such Order shall include every regulation for the time being in force amending, modifying or replacing same and all regulations already made or issued or to be made or issued after the date of this Deed;

"Liquor Licence" shall have the meaning given to that term in Clause 3.2.4(q);

"Obligations" in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future, actual or contingent;
- (d) joint or several;
- (e) incurred as a principal, guarantor or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else;

"Officer" in relation to a person, means any officer, employee or agent of that person;

"Permitted Security Interests" means:

- (a) any Security Interest arising by operation of law provided that it secures an amount arising from the normal course of business of the Chargor and which is outstanding for no more than 30 days; and
- (b) each Security Interest which Diageo has, from time to time, agreed in writing with the Chargor shall constitute a Permitted Security Interest;

"Real Property" means, in each case wherever located in the world, any freehold, leasehold or other immoveable property now or at any time hereafter belonging to, or any estate or interest vested in, the Chargor together with all rights, liberties, powers, easements, quasi easements and appurtenances (in each case of whatever nature) attached or appurtenant thereto and all buildings, erections, fixtures, fittings (including trade fixtures and fittings) and all fixed plant and machinery from time to time therein or thereon and the term **"Real Property"** shall, for the avoidance of doubt, include any Secured Real Property;

"Real Property Leases" shall have the meaning given to that term in Clause 3.2.4(a);

"Real Property Licences" shall have the meaning given to that term in Clause 3.2.4(b);

"Receiver" means an Administrative Receiver or a Fixed Charge Receiver;

"Rental Income" shall have the meaning given to that term in Clause 3.2.4(c);

"Right" means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary;

"Secured Assets" means those assets which are, from time to time, the subject of the Security Interests set out more particularly in Clause 3.2;

"Secured Obligations" means the Obligations undertaken to be paid or discharged in Clause 2 (*Payment of Secured Obligations*);

"Secured Real Property" means the Real Property (if any) more particularly described in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*);

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations;

"Security Interest" means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, assignation in security, trust, arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any blocked account or "flawed asset" arrangement which has the commercial effect of creating security for financial indebtedness;
- (c) any right of set-off whether it is created by agreement or by operation of law; and
- (d) any other proprietary interest over an asset, or any arrangement in relation to an asset, in each case created in relation to financial indebtedness and which has the same commercial effect as if security had been created over it;

"Security Period" means the period starting on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and no further Secured Obligations are capable of being outstanding;

"Subsidiary" means a subsidiary within the meaning of Section 1159 of the Companies Act 2006, and for this purpose if any shares are held by way of security, the person providing that security shall be treated as the member of the relevant company unless and until that security is realised, notwithstanding that the beneficiary of that security (or a nominee of that beneficiary) may be registered as a member of the relevant company;

"Tax" means any tax (including VAT), levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same); and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature or effect.

1.2 Unless a contrary indication appears, any reference in this Deed:

- 1.2.1** to any words denoting the singular number only shall be construed as including the plural and vice versa and to any words denoting any gender shall be construed as including all genders;
- 1.2.2** to any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.3** to assets includes present and future properties, assets, intellectual property rights, real property, heritable property, personal property, rights, revenues, uncalled capital and any Rights to receive, or require delivery of, or exercise direct control over any of the foregoing and, where reference to an asset contains a number of categories, each category will be construed as separate from each other category;

- 1.2.4 to any agreement or instrument is a reference to that agreement or instrument as in force for the time being and as from time to time (i) amended, restated, supplemented, varied, modified or novated or (ii) replaced or superseded by any other agreement or instrument between the parties to that agreement or instrument;
- 1.2.5 to the terms **including** or **includes** shall be construed as meaning **including without limitation** or **includes without limitation**;
- 1.2.6 to an **obligation** means any duty, obligation or liability of any kind;
- 1.2.7 to an **Indemnity** or **indemnifying** any person against any circumstance includes indemnifying and keeping that person harmless from all demands, actions, claims and proceedings from time to time made or brought against that person and all loss or damage and all payments, costs, expenses, liabilities and other Obligations from time to time made, suffered or incurred by that person as a direct or indirect consequence of, or which would not have arisen but for, the relevant circumstance;
- 1.2.8 to **indebtedness** includes any Obligation for the payment or repayment of money;
- 1.2.9 to a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.10 to a **regulation** includes any present or future law, regulation, rule, official directive, request or guideline having the force of law of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.11 to the **winding up, dissolution, administration or bankruptcy** of a person shall be construed as to include any equivalent or analogous procedures under the laws of any jurisdiction in which such person is incorporated or resident, any jurisdiction in which such person carries on business or in which any of its assets are located (including the seeking of a liquidation, winding up, appointment of bankruptcy trustee, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors, insolvency and suspension of payments);
- 1.2.12 to a provision of law or regulation shall be a reference to that provision as amended, supplemented, replaced or re-enacted;
- 1.2.13 to **£** or **pounds sterling** or **GBP** shall be to pounds sterling the lawful currency for the time being of the United Kingdom of Great Britain and Northern Ireland and to **€** or **euro** or **EUR** shall be to the lawful currency from time to time of the participating member states of the European Monetary Union pursuant to Council Regulation (EC) 974/98 of 3 May 1998, as amended from time to time;
- 1.2.14 to a time of day shall be a reference to Belfast time; and
- 1.2.15 to **Clauses and Schedules** are to be construed as references to **Clauses of and Schedules to this Deed**.
- 1.3 **Clause and Schedule headings** are for ease of reference only and shall be ignored in the interpretation of this Deed.
- 1.4 In this Deed an Event of Default is "**continuing**" if it has not been remedied or waived to the satisfaction of Diageo.
- 1.5 Where this Deed imposes an Obligation on the Chargor to do something if required or requested by Diageo, it will do so as soon as practicable after it becomes aware of the requirement or request.

- 1.6 It is intended that this document takes effect as a deed even though Diageo may only execute it under hand.
- 1.7 This Deed may be executed in counterparts.
- 1.8 The fact that no, or incomplete, details of any Secured Asset are inserted in Schedule 1 (*Secured Assets*) does not affect the agreement of the Chargor to create a Security Interest over that Secured Asset.
- 1.9 If Diageo considers that an amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.10 The Rights conferred on each Receiver and on each Officer of Diageo under Clause 5 (*Expenses, liability & indemnity*) and Clause 6 (*Payments*) are enforceable by each of them under the Contracts (Rights of Third Parties) Act 1999. No other term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone who is not a party to this Deed. The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting the Rights of a Receiver or of an Officer of Diageo under this Deed without its consent, **BUT ONLY** to the extent that the relevant Receiver or Officer has notified Diageo in writing that it intends to enforce or rely on the relevant provision prior to the time of the termination or variation.

2. PAYMENT OF SECURED OBLIGATIONS

- 2.1 The Chargor will pay or otherwise discharge all Obligations from time to time due by the Chargor to Diageo, in each case when they become due for payment or discharge in accordance with their respective terms. In the absence of any specific term for payment or discharge applying to all or any part of such Obligations, the relevant Obligations shall be repayable on demand in writing by Diageo.
- 2.2 For the avoidance of doubt the Obligations covenanted to be paid by the Chargor under this Clause 2 (*Payment of Secured Obligations*) will include all amounts whether in respect of principal, interest, broken funding costs, amounts due under hedging and other derivative contracts, costs, fees, expenses and charges and all amounts payable or to be paid by the Chargor under any provision of any Diageo Document.

3. CREATION OF SECURITY INTERESTS

- 3.1 The Security Interests created under this Clause 3 (*Creation of Security Interests*):
- 3.1.1 are given to Diageo in its capacity as a creditor of the Chargor;
 - 3.1.2 secure the payment and discharge of the Secured Obligations;
 - 3.1.3 are given as beneficial owner by the Chargor within the meaning of Section 7 (*Covenants for title to be implied*) of the Conveyancing and Law of Property Act 1881; and
 - 3.1.4 are given as a continuing security, shall extend to the ultimate balance of the Secured Obligations and shall continue in force notwithstanding any intermediate payment or discharge in whole or in part of the Secured Obligations unless and until Diageo discharges this Deed in writing.
- 3.2 The Chargor:
- 3.2.1 **GRANTS** and **DEMISES** so much of the Secured Real Property as is unregistered land **TO**

HOLD (i) as to so much thereof as is freehold unto Diageo for the term of 10,000 years from the date hereof and (ii) as to so much thereof as is leasehold unto Diageo for the residue or residues of the term or respective terms of years for which the same are held less the last 3 days of such term or of each of such terms;

3.2.2 as registered owner or the person entitled to become registered as owner **CHARGES BY WAY OF FIRST FIXED CHARGE** so much of the Secured Real Property as is registered or as is required to be registered in the Land Registry by virtue of the statutes in that behalf or otherwise and assents to the registration of the charge hereby created as a burden affecting such Real Property;

3.2.3 **CHARGES BY WAY OF FIRST FIXED CHARGE** all Real Property to the extent that such Real Property is not already subject to a Security Interest granted and created pursuant to Clause 3.2.1 or Clause 3.2.2 above;

3.2.4 **CHARGES BY WAY OF FIRST FIXED CHARGE** and **ASSIGNS BY WAY OF FIRST FIXED SECURITY ASSIGNMENT** all the Rights which it now has and all of the Rights which it obtains at any time in the future in:

- (a) each lease, licence or contract or agreement to lease, licence or let or contract of occupation entered into by the Chargor in relation to any Real Property including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*) (each a "Real Property Lease" and any one or more, as the context requires or admits, the "Real Property Leases");
- (b) each licence, permit or authority as renewed, amended, varied, extended or supplemented from time to time now or hereafter held by the Chargor in relation to any Real Property (or any part thereof) including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*) (each a "Real Property Licence" and any one or more, as the context requires or admits, the "Real Property Licences");
- (c) all monetary amounts paid to the Chargor in connection with a Real Property Lease or a Real Property Licence and all Obligations due and owing by a third party to the Chargor in connection with a Real Property Lease or a Real Property Licence together with all Rights and claims of the Chargor against all lessees, sub lessees, licensees or occupiers of the relevant Real Property (all, or any part thereof, as the context requires or admits, being the "Rental Income");
- (d) each guarantee and/or Security Interest provided in relation to or in support of the Obligations owed to the Chargor in respect of a Real Property Lease and/or a Real Property Licence including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*) (each a "Collateral Security" and any one or more, as the context requires or admits, the "Collateral Securities");
- (e) all Rights of the Chargor relating to any covenant, agreement or undertaking in relation to the construction and maintenance of all roads, pavements and utilities for services required in connection with any Real Property of the Chargor or charges, levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect of the matters aforesaid, any Right, benefit or agreement made between the Chargor and the local authority or any other person pursuant to which the Chargor has been or may be granted rights of access or rights of way in relation to any Real Property of the Chargor and all of the Chargor's Rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to any Real Property of the Chargor or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of any Real Property of the Chargor including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*) (all, or any part thereof, as the context requires or admits, being the "Construction Rights");
- (f) (save to the extent that it is part of the stock-in-trade of the Chargor) all chattel items, plant,

machinery, tools, vessels, vehicles, furniture, fittings, installations, apparatus, computers and office and other equipment and utensils and other tangible moveable property of the Chargor of whatsoever nature and wheresoever situate (both present and future) including all or any part of it and all spare parts, replacements, modifications and additions and including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part B (*The Chattels*) (all, or any part thereof, as the context requires or admits, being the "**Chattels**");

- (g) (i) all loans advanced by the Chargor to any person (but not including, for the avoidance of doubt, any credit balances or monies standing to the account of any account held with Diageo), (ii) any loan capital held by the Chargor, (iii) any investment (of whatsoever nature or howsoever described), (iv) any other debt security or any warrant or option to acquire or subscribe for any such security (whether it is held directly or through a custodian, clearing house or other person) unless it is of a type which is not held as an investment and is disposed of in the ordinary course of trading and (v) any stock, shares, units or other instrument or Rights entitling the Chargor to ownership or participatory rights (or rights equivalent to those granted by ownership of stock, shares or units) in another corporate entity and, in each case as aforesaid, any accretions to them and other Rights arising in connection with them including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part C (*The Investments*) (the "**Investments**");
- (h) all present and future contracts and policies of insurance and re-insurance of any kind taken out or, as the context requires, to be taken out and maintained by or on behalf of the Chargor in connection with the Secured Assets or in which the Chargor has an interest in connection with the Secured Assets including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part D (*Insurances*) (the "**Insurances**");
- (i) all proceeds of Insurances payable to or received by the Chargor (whether by way of claims, return premiums, *ex gratia* payments or otherwise) but excluding, for the avoidance of doubt, liability of the Chargor for third party claims to the extent that those proceeds are applied directly to discharge a liability of the Chargor to a third party (the "**Insurance Proceeds**");
- (j) each contract, agreement, instrument, deed or other arrangement entered into between the Chargor and any person (other than Diageo) including all contracts for the maintenance and repair of any Secured Asset and any warranty relating to a Secured Asset including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part E (*Contracts*) (the "**Contracts**");
- (k) each account held by the Chargor (or held by a nominee on behalf of the Chargor) with any bank or other financial institution including those (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part F (*Accounts*) and any account designated as a realisations account for the proceeds of any Disposal of the assets of the Chargor (as such accounts may, from time to time, be redesignated, renamed or redenominated) (each an "**Account**" and any one or more, as the context requires or admits, the "**Accounts**");
- (l) all monies from time to time standing to the credit of any one or more, as the context requires or admits, of the Accounts together with all other Rights and benefits accruing to or arising in connection with each Account (including, without limitation but only if applicable, any entitlements to interest or other amounts accruing to that Account) (all or any part thereof, as the context requires or admits, being the "**Deposits**");
- (m) (i) all copyright (including Rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading, (ii) any intellectual property that supplements or replaces intellectual property described in (i) above and (iii) any intellectual property (of whatsoever nature or howsoever described) acquired after the date of this Deed, including, in each case, that (if any) more particularly identified in Schedule 1 (*Secured Assets*) Part G (*The Intellectual Property*) (the "**Intellectual Property**");

- (n) any Obligation to pay money due and owing from a third party to the Chargor and all Rights (including any Security Interest) connected with it (the "**Debts**");
- (o) all of the Chargor's goodwill (including the goodwill of any business carried on at any Real Property) and uncalled capital;
- (p) each licence, consent, permit or authorisation (statutory or otherwise) held or required to be held in connection with the Chargor's business or the use of any Secured Asset including those (if any) which are specified in Schedule 1 (*Secured Assets*) Part H (*Business Licences*) (each a "**Business Licence**" and any one or more, as the context requires or admits, the "**Business Licences**");
- (q) each and every licence (as renewed, amended, varied, extended or supplemented from time to time) now or hereafter held by the Chargor in relation to the Real Property (or any part thereof) for the sale of spirits or intoxicating liquor whether for consumption on or off the premises including those (if any) which are specified in Schedule 1 (*Secured Assets*) Part A (*Secured Real Property*) (each a "**Liquor Licence**" and any one or more, as the context requires or admits, the "**Liquor Licences**");
- (r) all Rights of the Chargor under The Criminal Damage (Compensation) (Northern Ireland) Order 1977 and all Rights to any compensation or other amounts due to or paid to the Chargor under the aforesaid Order (the "**Criminal Damage Compensation**");

3.2.5 **CHARGES BY WAY OF FIRST FIXED CHARGE and ASSIGNS BY WAY OF FIRST FIXED SECURITY ASSIGNMENT** any Rights accruing to, derived from or otherwise connected with any of the Secured Assets (including, without limitation, any income associated with or generated by a Secured Asset and the proceeds of any Disposal of a Secured Asset); and

3.2.6 **CHARGES BY WAY OF FIRST FLOATING CHARGE** all of its property, undertaking and all its present and future assets including, for the avoidance of doubt, all or any part of the assets of the Chargor expressed to be subject to a Security Interest pursuant to any of the foregoing provisions of this Clause 3.2 to the extent that same fails (for whatsoever reason) to take effect as such.

3.3 Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 shall apply to the floating charge created by this Deed.

3.4 The floating charge set out in Clause 3.2.6 above:

3.4.1 shall automatically crystallise and be converted into a fixed charge if:

- (a) the Chargor ceases to carry on all or any material part of its business without the prior consent in writing of Diageo; or
- (b) a petition is presented, any resolution is proposed (whether or not passed) or any order is made for, in each case, the liquidation or winding up of the Chargor;
- (c) an Administrator or Receiver is appointed in respect of the Chargor or any of its assets; or
- (d) Diageo receives notice of an intention to appoint an Administrator or a Receiver in respect of the Chargor or any of its assets; or
- (e) any property, assets or undertaking of the Chargor shall (i) become subject to a Security Interest in favour of any person other than Diageo or (ii) be the subject of a Disposal (in each case where Diageo has not given its prior consent in writing to the creation or subsistence of such Security Interest or to such Disposal); or
- (f) upon the occurrence of an Event of Default save where Diageo notifies the Chargor in writing otherwise; and

- 3.4.2 shall crystallise and be converted into a fixed charge if Diageo shall serve a notice in writing on the Chargor specifying the identity of the assets in respect of which such floating charge has crystallised and, for the avoidance of doubt:
- (a) such notice may be served whether or not Diageo makes demand under Clause 2 (*Payment of Secured Obligations*) and whether or not an Event of Default shall have occurred; and
 - (b) Diageo may exercise its Rights under this Clause 3.4.2 more than once,
- and in each such case, forthwith upon crystallisation, the Chargor shall no longer be at liberty to dispose of the assets which are the subject of such crystallisation without the express consent in writing of Diageo.
- 3.5 For the purposes of crystallisation under Clause 3.4 above the time of crystallisation shall be deemed to be:
- 3.5.1 in respect of crystallisation under Clause 3.4.1, immediately prior to the relevant event occurring; and
 - 3.5.2 in respect of crystallisation under Clause 3.4.2, at the time such notice is deemed to have been served in accordance with the provisions of Clause 18 (*Notices*);
- 3.6 Subject to clause 3.7 below, the floating charge created by 3.2.6 may not be converted into a fixed charge solely by reason of obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency (Northern Ireland) Order 1989.
- 3.7 Clause 3.6 above does not apply to any floating charge referred to in section 13HC of Part A1 of the Insolvency (Northern Ireland) Order 1989.
- 3.8 The Chargor hereby applies to the Registrar of Titles for the registration of the following restriction in the above-mentioned folio(s) (and against any title to any unregistered property comprised in the Secured Real Property which is or ought to be the subject of a first registration of title at the Land Registry at the date of this Deed):
- "Except under an order of the Registrar no disposition or dealing is to be registered or noted without the consent of the Registered Owner for the time being of the Charge or Mortgage dated []".*
- and the Chargor further authorises Diageo to make all such applications which may be required in order to register such restriction on behalf of the Chargor.
- 3.9 The Chargor shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the Secured Real Property mortgaged by Clause 3.2.1 of this Deed in trust for Diageo and agrees to assign, convey or dispose of the same as Diageo may direct (subject to the proviso for redemption contained herein) and Diageo may at any time during the Security Period remove the Chargor or any other person, persons or body corporate from being a trustee of the trust declared by this Clause 3.9 and on the removal of the Chargor or such other person, persons or body corporate appoint a new trustee or trustees in his, their or its place.
- 3.10 The Chargor hereby attorns tenant to Diageo of any part of the Secured Real Property mortgaged by Clause 3.2.1 at the yearly rent of five pence (if demanded) provided always that Diageo may at any time without notice to the Chargor determine the tenancy hereby created and enter upon such part of the Secured Assets but so that neither the receipt of the said rent nor the said tenancy shall render Diageo liable to account to any person as mortgagee in possession.
- 3.11 Production of these presents to the person liable to pay any amount which has pursuant to the terms of this Deed, been charged and/or assigned to Diageo shall be sufficient authority to it or him to pay such moneys to Diageo.

4. REDEMPTION

Subject to the provisions of Clause 19.2, on the expiry of the Security Period (but not otherwise) Diageo shall, at the request and cost of the Chargor, take whatever action is necessary to (i) release the Secured Assets from the security constituted by this Deed and (ii) reassign the Secured Assets to the Chargor.

5. EXPENSES, LIABILITY & INDEMNITY

- 5.1 The Chargor shall, within ten (10) Business Days of demand, pay or reimburse (on a full indemnity basis) all costs and expenses (including any stamp duty, registration or other similar taxes and fees and the professional fees, costs and expenses of all Advisers) incurred by Diageo in connection with the transactions entered into with the Chargor and the negotiation, preparation, printing and execution of this Deed. For the avoidance of doubt, this includes all costs and expenses relating to the enforcement or preservation of the security constituted by this Deed and to any amendment, waiver, consent or release required in connection with this Deed.
- 5.2 Neither Diageo nor any of its officers, employees, agents and advisers will be in any way liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind in relation to this Deed.
- 5.3 The Chargor will, within ten (10) Business Days of demand, indemnify each of Diageo and each of its officers, employees, agents and advisers on a full indemnity basis in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:
- 5.3.1 anything done or omitted in the exercise of the powers conferred on it under this Deed;
- 5.3.2 a claim of any kind made against it which would not have arisen if this Deed had not been entered into; or
- 5.3.3 any breach by the Chargor of this Deed.

6. SET-OFF

Diageo may set off any monies due to it from the Chargor under this Deed against any monies owed by Diageo to the Chargor and may effect any currency conversion necessary to give effect to that set-off.

7. PAYMENTS

- 7.1 All payments by the Chargor under this Deed will be made in full, without any set-off or other deduction.
- 7.2 Any payment under this Deed which would fall due for payment on a day which is not a Business Day will instead fall due for payment on the preceding Business Day.
- 7.3 If any Tax or other sum must be deducted from any amount payable by the Chargor under this Deed, the Chargor will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.
- 7.4 All amounts payable by the Chargor under this Deed are exclusive of VAT. The Chargor will, in addition, pay any applicable VAT on those amounts.

- 7.5 If the Chargor fails to make a payment to a person under this Deed, it will pay default interest (calculated at the Default Rate) to that person on the amount concerned from the date it should have made the payment until the date of payment (after, as well as before, judgment).
- 7.6 No payment by the Chargor (whether under a court order or otherwise) will discharge the Obligation of the Chargor unless and until Diageo has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, Diageo will have a separate cause of action against the Chargor for the shortfall.
- 7.7 Any certification or determination by Diageo of an amount payable by the Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

8. PROTECTION OF SECURITY

- 8.1 The security constituted by this Deed is a continuing security and will extend to the ultimate balance of sums payable by the Chargor to Diageo in connection with the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.
- 8.2 The Obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 8.2, would reduce, release or prejudice any of its Obligations under this Deed (whether or not known to it or Diageo) including:
- 8.2.1 any time, waiver or consent granted to, or composition with, the Chargor or any other person;
- 8.2.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of any person;
- 8.2.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any Rights against, or Security Interest over assets of, the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
- 8.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members, name or status of the Chargor or any other person;
- 8.2.5 any amendment, novation, supplement, extension (however fundamental and whether or not more onerous), or replacement, assignment, avoidance or termination of any Diageo Document including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Diageo Document;
- 8.2.6 any unenforceability, illegality or invalidity of any Obligation of, or any Security Interest created by, any person under this Deed or any other Diageo Document; or
- 8.2.7 any Insolvency Event in respect of the Chargor or any other person.
- 8.3 Without prejudice to the generality of Clause 8.2, the Chargor expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the documents or instruments constituting the Secured Obligations and/or any facility or amount made available under any of the foregoing for the purposes of or in connection with acquisitions of any nature, increasing working capital, enabling investor distributions to be made, carrying out restructurings, refinancing existing facilities, refinancing any other indebtedness, making facilities available to new borrowers, any other variation or extension of the purposes for which any such facility or amount might be made available from time to time and any fees, costs and/or expenses associated with any of the foregoing.
- 8.4 The Chargor waives any right it may have of first requiring Diageo (or any trustee or agent on

its behalf) to proceed against or enforce any other Rights or Security Interests or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any regulation or any provision of any document to the contrary.

8.5 During the Security Period, Diageo may:

8.5.1 refrain from applying or enforcing any other moneys, Security Interests or Rights held or received by it (or any trustee or agent on its behalf) in respect of amounts which may be or become payable by the Chargor to Diageo under or in connection with the Secured Obligations, or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of them; and

8.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's Obligations and liability under this Deed.

8.6 During the Security Period, and unless Diageo otherwise directs in writing, the Chargor will not exercise any Rights which it may have by reason of performance by it of its Obligations under this Deed or any other document or by reason of any amount being payable, or liability arising, under this Deed:

8.6.1 to receive or claim payment from or be indemnified by any other person;

8.6.2 to claim any contribution from any provider of a Security Interest in respect of any of the Secured Obligations;

8.6.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any Rights of Diageo under any document relating to the Secured Obligations;

8.6.4 to exercise any right of set-off against any other person; and/or

8.6.5 to claim or prove as a creditor of any other person in competition with Diageo.

8.7 During the Security Period, the Chargor shall not take, or retain, any security, guarantee, indemnity or other assurance or undertaking against payment from any other person in connection with any of the Chargor's Obligations under this Deed.

8.8 If the Chargor is in breach of Clause 8.6 or Clause 8.7, the Chargor shall hold on trust the payment, contribution, benefit, right or security, guarantee, indemnity or other assurance or undertaking against payment to transfer or pay it to Diageo to the extent necessary to satisfy any of the Chargor's Obligations under this Deed.

8.9 If this Deed ceases to be continuing for any reason, Diageo may open a new account or accounts with the Chargor and, if it does not do so, it shall nevertheless be treated as if it had done so at the time this Deed ceased to be continuing (whether by determination, calling in, demand or otherwise), and as from that time all payments made by the Chargor to Diageo shall be credited or be treated as having been credited to the new account and shall not operate to reduce the Secured Obligations at that time.

9. NEGATIVE PLEDGE

9.1 At all times during the Security Period (unless Diageo agrees in writing to the contrary), the Chargor will ensure that no Security Interest other than a Permitted Security Interest will exist over, or in relation to, any Secured Asset.

9.2 Save as permitted by Clause 9.3, at all times during the Security Period, the Chargor will ensure that there will be no Disposal of any Secured Asset.

9.3 Prior to crystallisation of the floating charge set out in Clause 3.2.6, the Chargor may Dispose

of any Secured Asset which is subject only to such floating charge **PROVIDED THAT** (a) the Disposal is made by the Chargor in the ordinary course of its business **and** (b) the Disposal is made on arms' length terms for value to a purchaser who is not connected to the Chargor (and for the purposes of this Clause 9.3 the term "**connected**" shall be construed in accordance with Clause 839 of the Income and Corporation Taxes Act 1988).

10. FURTHER ASSURANCE

The Chargor will, at its own expense, create all Security Interests, execute all documents, give all notices, effect all registrations (whether at Companies House, Land Registry of Northern Ireland, Registry of Deeds of Northern Ireland, any other relevant asset registry or otherwise), deposit all documents and do all other things as Diageo may require from time to time in order to (a) ensure that it has effective Security Interests as contemplated by Clause 3.2 and (b) facilitate the enforcement of the security constituted by this Deed, the realisation of the Secured Assets or the exercise of any Rights held by Diageo or any Receiver under or in connection with this Deed.

The scope of this Clause 10 (*Further assurance*) is not limited by the specific provisions of Clause 11 (*Undertakings and covenants*) or by any other provision of any Diageo Document.

11. UNDERTAKINGS AND COVENANTS

11.1 General undertakings

- 11.1.1 The Chargor will take all steps as are reasonably necessary to preserve the value and marketability of its Secured Assets and the Chargor shall not do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by Diageo or materially diminish the value of the Secured Assets or the effectiveness of the security created by this Deed. In particular, the Chargor shall use its best endeavours to (i) maintain, preserve and renew when necessary all licences, permissions, consents and other Rights required in order to allow the Chargor to have the full use and enjoyment, without restriction, of the Secured Assets, (ii) procure the prompt observance and performance by the counterparty to any agreement or arrangement with the Chargor relating to the Secured Assets and (iii) enforce any Rights and institute, continue or defend any proceedings relating to the Secured Assets which Diageo may require from time to time.
- 11.1.2 The Chargor will keep all of its Secured Assets in good repair, working order and condition and permit Diageo and its representatives to view the state and condition of such Secured Assets upon giving reasonable notice to the Chargor.
- 11.1.3 The Chargor will notify Diageo as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of Diageo under any Diageo Document. Those matters include a breach or purported breach of a Contract by any party to it and a claim by any person to an interest in a Secured Asset.
- 11.1.4 The Chargor shall, on the execution of this Deed or forthwith upon the subsequent acquisition of any material asset deposit with Diageo and Diageo shall, for the duration of the Security Period, be entitled to hold all deeds and documents of title relating to the Secured Assets (including, without limitation, any Liquor Licence(s)). If these are not within the possession and/or control of the Chargor, the Chargor undertakes to obtain possession of all such deeds and documents of title **SAVE WHERE** the holder of a Permitted Security Interest ranks ahead of Diageo in terms of priority of security and Diageo has agreed in writing that such deeds and documents of title may be held by the aforementioned holder of a Permitted Security Interest for the duration of the Security Interest held by same.
- 11.1.5 The Chargor shall at its own cost, if at any time so required by Diageo, appoint an accountant or firm of accountants nominated by Diageo to investigate the financial affairs of the Chargor and those of its Subsidiaries or other companies in its group and report to Diageo and co-

operate fully with any accountants so appointed and immediately provide such accountants with all information requested. The Chargor authorises Diageo to make such appointment as it shall think fit at any time, without further authority from the Chargor. In every such case, the fees and expenses of those accountants shall be paid by the Chargor but, if paid by Diageo on the Chargor's behalf, those fees and expenses shall be fully reimbursed to Diageo under Clause 5 (*Expenses, liability & indemnity*) of this Deed.

11.1.6 The Chargor will provide to Diageo:

- (a) such information about the Secured Assets;
 - (b) such information about the extent to which it has complied with its Obligations under this Deed; and
 - (c) copies of such documents which create, evidence or relate to its Secured Assets,
- as Diageo may from time to time reasonably request.

11.1.7 The Chargor shall not form, promote, acquire or Dispose of any Subsidiary or any interest in any body corporate.

11.1.8 If, after the date of this Deed, the Chargor acquires Rights in any material asset it will notify Diageo as soon as reasonably practicable and will provide it with such information about the acquisition as Diageo may reasonably require.

11.2 Real Property

11.2.1 The Chargor shall:

- (a) keep all buildings and all fixtures on any Real Property in good and substantial repair and condition;
- (b) insure, and keep insured, those buildings and fixtures with such insurer and against such risks and in such amounts and otherwise on such terms as Diageo may require (and, failing such requirement, in accordance with the practice in respect of items of the same type current amongst prudent businessmen from time to time); and
- (c) comply with the provisions of Clause 11.5 (*Insurances*) in respect of all such policies of insurance.

11.2.2 The Chargor shall not, without the prior written consent of Diageo:

- (a) pull down or remove the whole or any part of any building forming part of any Real Property; or
- (b) make any alterations to any such Real Property or sever or remove any of its fixtures; or
- (c) remove or make any alterations to any of the Chattels belonging to, or in use by, the Chargor on any such Real Property (except to effect necessary repairs or replace them with new or improved models or substitutes); or
- (d) whenever any of the Chattels are destroyed, damaged or deteriorates, immediately repair, replace and make good the same.

11.2.3 The Chargor shall:

- (a) give full particulars to Diageo of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (a "Planning Notice") that specifically applies to any Real Property, or to the locality in which it

is situated, within seven days after becoming aware of the relevant Planning Notice; and

- (b) (if Diageo so requires) immediately, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with Diageo in making, such objections or representations in respect of any such Planning Notice as Diageo may desire.

11.2.4 The Chargor shall:

- (a) observe and perform all covenants, stipulations and conditions to which all Real Property, or the use of it, is or may be subjected and (if Diageo so requires) produce to Diageo evidence sufficient to satisfy Diageo that those covenants, stipulations and conditions have been observed and performed; and
- (b) (without prejudice to the generality of the foregoing) where Real Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time and perform and observe all the tenant's covenants and conditions.

11.2.5 The Chargor shall not, without the prior written consent of Diageo:

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Real Property, or exercise the statutory powers of leasing (or agreeing to lease) or of accepting (or agreeing to accept) surrenders under Section 18 of the Conveyancing and Law of Property Act 1881 and Section 3 of the Conveyancing Act 1911; or
- (b) in any other way dispose of, or agree to dispose of, surrender or create any legal or equitable estate or interest in the whole or any part of any Real Property.

11.2.6 The Chargor shall procure that no person shall be registered under The Land Registration Act (Northern Ireland) 1970 as proprietor of any Real Property without the prior written consent of Diageo. The Chargor shall be liable for the costs of Diageo in lodging cautions against the registration of the title to the whole or any part of any Real Property from time to time.

11.2.7 The Chargor shall not, without the prior written consent of Diageo, carry out or permit or suffer to be carried out on any Real Property any development as defined in The Planning (Northern Ireland) Order 1991 or change or permit or suffer to be changed the use of any Real Property.

11.2.8 The Chargor shall:

- (a) properly discharge all duties of care and responsibility placed upon it by Environmental Law;
- (b) observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management possession or occupation of each Real Property; and
- (c) apply for and obtain all authorisations, necessary to ensure that it does not breach Environmental Law.

11.2.9 The Chargor shall not, without the prior written consent of Diageo, enter into any onerous or restrictive Obligations affecting the whole or any part of any Real Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Real Property.

11.2.10 The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Real Property without the prior written consent of Diageo.

11.2.11 The Chargor shall permit Diageo and any Receiver and any person appointed by either of them to enter on and inspect any Real Property on reasonable prior notice.

11.2.12 The Chargor shall inform Diageo promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any Real Property.

11.2.13 The Chargor shall, promptly when requested by Diageo deposit with Diageo the deeds and documents of title relating to any Real Property owned by the Chargor, execute over all or any part thereof such document, instrument or other deed creating a Security Interest (in the preferred form of Diageo) in respect of any Real Property, such document, instrument or other deed to be supplemental hereto, subject to the like Rights and powers as are hereby conferred upon Diageo, and in addition to and not in substitution for the security hereby created.

11.2.14 The Chargor shall, promptly when requested by Diageo, serve on each tenant, lessee or occupier of any part of the Real Property a notice in such form as is requested by Diageo and use all reasonable endeavours to procure that each such notice is duly acknowledged and returned to Diageo.

11.2.15 The Chargor shall not, without the prior written consent of Diageo, exercise any VAT option to tax in relation to any Real Property or revoke any VAT option to tax exercised, and disclosed to Diageo, before the date of this deed.

11.2.16 The Chargor shall not, without the prior written consent of Diageo, discharge or release any Collateral Security save where the Obligations secured by such Collateral Security have been irrevocably and unconditionally paid or otherwise discharged in full.

11.3 Chattels

11.3.1 The Chargor shall (a) maintain the Chattels in good and serviceable condition (except for expected fair wear and tear) and (b) not permit any Chattels to be (i) used or handled, other than by properly qualified and trained persons or (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

11.3.2 The Chargor shall promptly pay all Taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Chattels and, on demand, produce evidence of payment to Diageo.

11.3.3 The Chargor shall (a) give Diageo such information concerning the location, condition, use and operation of Chattels as Diageo may require and (b) permit any persons designated by Diageo to inspect and examine the Chattels and the records relating to the Chattels at all reasonable times.

11.3.4 The Chargor shall (a) at its own expense, procure that the Chattels are covered and kept covered by insurance of a kind satisfactory to Diageo with insurers approved by Diageo (such approval not to be unreasonably withheld) for full comprehensive insurance cover, which shall include (but not be limited to) fire, theft and accident, for an amount agreed with Diageo, (b) maintain insurance for third party liabilities in such amount, and on such terms, as is usual for users of equipment of the same type as the Chattels and (c) comply with the provisions of Clause 11.5 (*Insurances*) in respect of all such policies of insurance.

11.3.5 The Chargor will deposit with Diageo (or to the order of Diageo) all title deeds or other documents of title relating to the Chattels together with all policies of insurance relating thereto.

11.3.6 The Chargor shall, unless Diageo has agreed otherwise in writing, ensure that durable and legible plaques or other markings are attached to each of the Chattels in a clear and prominent position indicating Diageo's interest in such Chattels and the Chargor shall not permit any of same to be concealed, altered or removed in any way.

11.3.7 If required to do so by Diageo, the Chargor will create a further chattels mortgage over any chattel items, plant, machinery or other assets owned by the Chargor at that time, in any form which Diageo may require.

11.4 Investments

- 11.4.1 The Chargor shall, on the execution of this Deed, deposit with Diageo all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Chargor at that time and, on the purchase or acquisition by it of Investments after the date of this Deed, deposit with Diageo all stock or share certificates and other documents of title or evidence of ownership relating to those Investments. At the same time as depositing documents with Diageo in accordance with the foregoing provisions of this Clause 11.4.1, the Chargor shall also deposit with Diageo all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Chargor, but with the name of the transferee, the consideration and the date left blank and any other documents (in each case duly completed and executed by or on behalf of the Chargor) that Diageo may request in order to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the foregoing, so that Diageo may, at any time and without notice to the Chargor, complete and present those stock transfer forms and other documents to the issuer of the relevant Investments for registration. In addition to the foregoing the Chargor shall, if so requested by Diageo, procure that the directors and the secretary of any issuer of an Investment that is not a public company provides Diageo with an executed letter of resignation (to be held in escrow pending enforcement) and a letter of authority relating to same, in each case in such form as Diageo may require.
- 11.4.2 The Chargor shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under Section 145 or Section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated does not exercise any rights in respect of any Investments without the prior written approval of Diageo and immediately on receipt by it, forward to Diageo all communications or other information received by it in respect of any Investments for which it has been so nominated. The Chargor shall not, during the Security Period, exercise any rights (including, without limitation, any rights under Section 145 and Section 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.
- 11.4.3 The Chargor shall obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association of any issuer of an Investment that is not a public company or otherwise, for the transfer of the relevant Investments to Diageo or its nominee, or to a purchaser on enforcement of this Deed and procure the amendment of the transfer provisions (including, but not limited to, deletion of any pre-emption provisions) of the articles of association of each issuer of an Investment that is not a public company in any manner that Diageo may require in order to permit such a transfer.
- 11.4.4 Before the security constituted by this Deed becomes enforceable (a) the Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of any Investments and, if any are paid or payable to Diageo or any of its nominees, Diageo will hold all those dividends, interest and other monies received by it for the Chargor and will pay them to the Chargor promptly on request and (b) the Chargor may exercise all voting and other rights and powers in respect of any Investments or, if any of the same are exercisable by Diageo or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that (i) it shall not do so in any way that would breach any provision of any Diageo Document or for any purpose inconsistent with any Diageo Document and (ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in Diageo's opinion, have an adverse effect on the value of any Investments or otherwise prejudice Diageo's security under this Deed.
- 11.4.5 The Chargor shall indemnify Diageo against any loss or liability incurred by Diageo (or its nominee) as a consequence of Diageo (or its nominee) acting in respect of any Investments at the direction of the Chargor.
- 11.4.6 Diageo shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or

conferred by any Investments that Diageo considers prejudicial to, or impairing the value of, the security created by this Deed.

- 11.4.7 After the security constituted by this Deed has become enforceable (a) all dividends and other distributions paid in respect of any Investments and received by the Chargor shall be held by the Chargor on trust for Diageo and immediately paid into such Account as Diageo shall direct or, if received by Diageo, shall be retained by Diageo and (b) all voting and other rights and powers attaching to any Investments shall be exercised by, or at the direction of, Diageo and the Chargor shall, and shall procure that its nominees shall, comply with any directions Diageo may give, in its absolute discretion, concerning the exercise of those rights and powers.
- 11.4.8 The Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any Investments. The Chargor acknowledges that Diageo shall not be under any liability in respect of any such calls, instalments or other payments (whether or not it or its nominee has become registered as the holder of the relevant Investment).
- 11.4.9 The Chargor shall not, without the prior written consent of Diageo, amend, or agree to the amendment of (a) the memorandum or articles of association, or any other constitutional documents, of any issuer of an Investment that is not a public company or (b) the rights or liabilities attaching to any of any Investments.
- 11.4.10 The Chargor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of an Investment that is not a public company shall not (a) consolidate or subdivide any of the Investments, or reduce or re-organise its share capital in any way, (b) issue any new shares or stock or (c) refuse to register any transfer of any Investments that may be lodged for registration by, or on behalf of, Diageo or the Chargor in accordance with this Deed.
- 11.4.11 The Chargor shall, promptly following receipt, send to Diageo copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

11.5 Insurances

11.5.1 The Chargor will:

- (a) maintain insurances in relation to its business and the Secured Assets with reputable underwriters or insurance companies of a type, to the extent and in an amount which is usual for companies carrying on similar businesses whose practice it is not to self-insure;
- (b) punctually pay all premiums and other money payable under its Insurances and comply with their other provisions; and
- (c) ensure that, at the option of Diageo, (i) Diageo's interest is noted on the Insurances, (ii) Diageo is named as a joint-insured in respect of the Insurances or (iii) the relevant insurer will, from time to time, provide Diageo with a letter of undertaking relating to the Insurances in form and substance satisfactory to Diageo.

11.5.2 During an Enforcement Time (and also once any Diageo Document has been enforced), all Insurance Proceeds will be paid to Diageo for application in accordance with Clause 15 (*Application of proceeds*). Otherwise, all Insurance Proceeds will be applied in reinstatement of the assets concerned.

11.6 Contracts

- 11.6.1 If, at any time, the Chargor has a Right in respect of a Contract, it will, if requested to do so by Diageo deliver a notice of this Deed to the other parties to the relevant Contract in such form as Diageo may require and use its best endeavours to procure that those parties deliver an acknowledgement of the notice to Diageo as soon as reasonably practicable.

11.6.2 The Chargor will:

- (a) comply with all of its Obligations under each Contract; and
- (b) use its reasonable endeavours to ensure that Diageo receives the full benefit of each Contract.

11.6.3 The Chargor will not (in each case without the consent in writing of Diageo):

- (a) amend, supplement, vary or otherwise agree to alter the terms of, or terminate, any Contract; or
- (b) waive its Rights under a Contract.

11.6.4 The Chargor shall, at all times, remain liable to the contractual counterparty to each Contract to perform and discharge all of its duties and Obligations in respect thereof as if this Deed had not been executed and, under no circumstances, shall Diageo become liable to such counterparty in respect of such Contract.

11.7 Accounts

11.7.1 If, at any time, the Chargor has a Right in respect of an Account, it will, if requested to do so by Diageo either, at the discretion of Diageo, (i) deliver a notice of this Deed to the bank, financial institution or other party holding such Account in such form as Diageo may require and use its reasonable endeavours to procure that those parties deliver an acknowledgement of the notice to Diageo as soon as reasonably practicable or (ii) use its reasonable endeavours to procure that the bank, financial institution or other party holding such Account executes and enters into an account bank agreement (to be in form and substance satisfactory to Diageo).

11.7.2 The Chargor will not, save with the prior written consent of Diageo, open or maintain any Accounts other than those held with Diageo.

11.8 Intellectual Property

11.8.1 The Chargor will, at any time during an Enforcement Time and on demand in writing by Diageo, execute and enter into all assignments, transfers or other instruments required to effectively convey to Diageo or its nominee all of the Rights of the Chargor in and to the Intellectual Property and to enable Diageo or its nominee to become the legal and/or registered owner of the Intellectual Property.

11.8.2 The Chargor will, at any time during an Enforcement Time and on demand in writing by Diageo, deliver to Diageo or its nominee, all documents of title, source code or other know how relating to the Intellectual Property.

11.8.3 The Chargor will not abandon, cancel or allow any of the registrations relating to the Intellectual Property to lapse by way of non-payment of renewal or other fees or otherwise howsoever or otherwise fail to do any act required to maintain such registrations in full force and effect.

11.8.4 The Chargor will not grant licences or part with or Dispose of the whole or any part (whether by one or a series of transactions whether or not related) of the Intellectual Property.

11.8.5 The Chargor will not alter the specifications of any registrations relating to the Intellectual Property.

11.8.6 The Chargor will take all reasonable and appropriate actions as are necessary to cease any infringement or unauthorised use by a third party of the Intellectual Property.

11.9 Business Licences

The Chargor will procure that each and every licence, consent, permit and authorisation (including, without limitation, the Business Licences) required or desirable to enable the Chargor to carry on its business (or any business which the Chargor may, from time to time, carry on) is obtained by the Chargor and is, at the appropriate time, renewed or reobtained.

11.10 Liquor Licences

11.10.1 Where there is a Liquor Licence attached to the Real Property (or any part thereof) or where such Liquor Licence is required in order to carry on business at the Real Property (or any part thereof), the Chargor covenants with Diageo that the Chargor will (or will procure that the holder of such Liquor Licence will):

- (a) keep open or cause to be kept open any part of the Real Property licensed from time to time for the sale of liquor; and
- (b) at all proper times apply for or cause to be applied for and use its best endeavours to obtain renewals from time to time of the relevant Liquor Licence(s); and
- (c) conduct or cause to be conducted the business as is carried on in the Real Property in a regular and proper manner in every respect so that the Liquor Licence(s) shall not in any way be legally or justly abrogated forfeited or refused; and
- (d) deliver to Diageo (to be held as security for the Chargor's Obligations under this Deed) each Liquor Licence **provided that** Diageo shall, upon request in writing from the Chargor's solicitor, return the Liquor Licence to the Chargor's solicitor (subject to such undertakings as Diageo may consider appropriate) for the purposes of the Chargor's compliance with the covenants and undertakings set out in this Clause 11.10.1; and
- (e) not do or suffer to be done anything whatsoever whereby the business carried on in the Real Property or the goodwill thereof might in any way be or be liable to be prejudicially affected; and
- (f) on demand by Diageo endorse, hand over, assign or transfer the Liquor Licence(s) and any future renewals thereof to Diageo or the nominee or appointee of Diageo, which shall include any Receiver and, if so required by Diageo, will transfer, endorse, handover or assign the Liquor Licence(s) to any purchaser under any sale of the Real Property to which such Liquor Licence is attached; and
- (g) sign any notice and make any application for the transfer or renewal of the Liquor Licences which Diageo may require; and
- (h) at the Chargor's own expense attend if required before the Courts in person or send an appointed representative; and
- (i) consent to any such transfer, renewal, or assignment and do all other acts necessary for effectually vesting the Liquor Licence(s) in Diageo or the nominee or appointee of Diageo, which shall include any Receiver.

11.11 Debts

11.11.1 The Chargor will promptly collect in all of its Debts and shall, on demand by Diageo, procure that all monies received pursuant to such Debts are paid into such Account(s) as may be directed by Diageo.

11.11.2 The Chargor shall not, otherwise than with the consent in writing of Diageo, factor, discount, assign, charge or otherwise dispose of the Debts.

11.12 Criminal Damage Compensation

Forthwith upon the occurrence of any event or circumstances giving rise to a claim for compensation under The Criminal Damage (Compensation) (Northern Ireland) Order 1977 in respect of any of the Secured Assets and in each case within any applicable statutory time limits, the Chargor shall institute a claim under the aforesaid Order, serve a copy of the documentation of the claim on Diageo and take all steps required to make application to obtain payment of the maximum compensation payable under the said Order and either apply all compensation paid thereunder in rebuilding and reinstating the assets the subject thereof making good any deficiency out of the Chargor's own monies or, if Diageo so requires, assign its Rights under any claim and any monies payable thereunder and pay any such deficiency.

11.13 Management

The Chargor shall carry on all of its trade and business in accordance with the standards of good management from time to time current in such trade or business.

11.14 Duration of covenants

The Chargor shall, save with the prior consent in writing of Diageo, comply with each of the undertakings and other covenants set out in this Clause 11 (*Undertakings and covenants*) at all times during the Security Period.

11.15 Authorisation to solicitor and other agents

The Chargor hereby irrevocably instructs any solicitor or other agent holding any documents of title, title deeds, liquor licences, Intellectual Property or other documents, instruments, agreements, authorisations, books or records (which the Chargor has, pursuant to the terms of this Deed, created a Security Interest in respect of or otherwise undertaken to deliver to Diageo) on its behalf to deliver same to Diageo forthwith upon request, production of a copy of this Deed being sufficient authority of same.

12. REPRESENTATIONS AND WARRANTIES

12.1 The Chargor represents and warrants to Diageo that:

- 12.1.1 the Chargor has power and capacity under its memorandum and articles of association, any applicable shareholders' agreement or investment agreement, any trust deed and all other relevant constitutional documents to execute and enter into each Diageo Document and the Obligations being so undertaken by the Chargor are legal, valid, binding and enforceable against the Chargor in accordance with their respective terms;
- 12.1.2 the Chargor is the legal and beneficial owner of the Secured Assets;
- 12.1.3 the Secured Assets are free from any Security Interest other than any Permitted Security Interests;
- 12.1.4 the Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Secured Assets or any interest in the whole or any part of same;
- 12.1.5 there are no covenants, agreements, reservations, conditions, interests, Rights or other matters whatever, which materially adversely affect the Secured Assets;
- 12.1.6 there is no breach of any regulation which materially adversely affects the Secured Assets;
- 12.1.7 no facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use;
- 12.1.8 nothing has arisen or has been created or is subsisting which would be an overriding interest

In any of the Secured Assets;

12.1.9 no Security Interest expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise;

12.1.10 the Chargor has at all times complied in all material respects with all applicable laws and regulations relating to the Environment and the conduct of its business; and

12.1.11 the entry into this Deed by the Chargor does not and will not constitute a breach of any agreement or instrument binding on the Chargor or its assets.

12.2 The rights and remedies of Diageo in respect of any misrepresentation or breach of warranty on the part of the Chargor shall not be prejudiced or affected by any investigation of a Chargor or any other person by or on behalf of Diageo or (without limitation) any other act or matter which, but for this provision, would or might prejudice or affect any such rights or remedies.

12.3 The representations and warranties set out in this Clause 12 (*Representations and warranties*) are deemed to be made by the Chargor by reference to the facts and circumstances then existing on each day during the Security Period.

13. ENFORCEMENT

13.1 Time for enforcement

13.1.1 Diageo's power of sale under the Conveyancing and Law of Property Act 1881 shall arise and become exercisable and Diageo may enforce this Deed at any time which is an Enforcement Time or if the Chargor requests it to do so.

13.1.2 The restrictions set out in Section 20 (*Regulation of exercise of power of sale*) of the Conveyancing and Law of Property Act 1881 shall not apply to this Deed.

13.2 Methods of enforcement

13.2.1 Diageo may enforce the security constituted by this Deed by:

- (a) (if permitted to do so by the Insolvency Legislation or by any other applicable Law) appointing an Administrator of the Chargor;
- (b) (if permitted to do so by the Insolvency Legislation or by any other applicable Law) appointing an Administrative Receiver of the Chargor;
- (c) appointing a Fixed Charge Receiver of the Secured Assets;
- (d) going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide; or
- (e) taking any other action as it may, in its absolute discretion, decide (including, without limitation, in any jurisdiction other than Northern Ireland).

13.2.2 An Administrator must be appointed in accordance with the Insolvency Legislation and/or any other applicable Law.

13.2.3 A Receiver must be appointed by an instrument in writing and (where relevant) in accordance with the Insolvency Legislation and/or any other applicable Law. Such appointment may be made, at the discretion of Diageo, under hand or as a deed.

13.2.4 The appointment of a Receiver may be made subject to such limitations as are specified by

Diageo in the appointment.

- 13.2.5 Diageo may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency (Northern Ireland) Order 1989 other than in respect of a floating charge referred to in section 13HC(4) of Part A1 of the Insolvency (Northern Ireland) Order 1989.
- 13.2.6 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that Diageo may specify to the contrary in the appointment.
- 13.2.7 Subject to the Insolvency Legislation and/or any other applicable Law, Diageo may remove or replace any Receiver.
- 13.2.8 If required by the Insolvency Legislation and/or any other applicable Law, an Administrator or Receiver must be a person qualified to act as such under it.
- 13.2.9 The powers granted to Diageo and any Receiver by this Deed shall be in addition to all statutory and other powers of Diageo and such Receiver under the Conveyancing and Law of Property Act 1881, the Conveyancing Act 1911 or otherwise and all such powers shall remain exercisable from time to time by Diageo in respect of the Secured Assets.

13.3 Powers on enforcement

- 13.3.1 An Administrator will have the powers given to him by the Insolvency Legislation and/or any other applicable Law.
- 13.3.2 An Administrative Receiver will have:
 - (a) the powers given to him by the Insolvency Legislation and/or any other applicable Law;
 - (b) the powers given to a mortgagee or a receiver by the Conveyancing and Law of Property Act 1881 and the Conveyancing Act 1911, but without the restrictions contained in Section 20 (*Regulation of exercise of power of sale*) of the Conveyancing and Law of Property Act 1881; and
 - (c) the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor was not in insolvency proceedings.
- 13.3.3 A Fixed Charge Receiver will, in respect of the Secured Assets over which he is appointed, have the same powers as an Administrative Receiver would have if he were duly appointed as the administrative receiver of the Chargor (notwithstanding that the Fixed Charge Receiver is not, and nothing set out in this Deed shall be deemed to constitute the Fixed Charge Receiver as, an administrative receiver).
- 13.3.4 In addition to (but without limitation to) the powers specified in Clause 13.3.2 and Clause 13.3.3, a Receiver shall have the following powers:
 - (a) a Receiver may execute an assignment or transfer of any Liquor Licence to such party or parties as the Receiver may, in its absolute discretion, determine and in exchange for such consideration and on such terms as he thinks fit;
 - (b) a Receiver may apply to the Court for renewal of any Liquor Licence and may also apply to the Court for consent to alterations being made to the Licensed Premises and, in so doing, shall have the power to make such applications, attend before the Court and otherwise have control over all proceedings as may be required to validly and effectually so renew or obtain such consent;
 - (c) a Receiver may carry on from the relevant Licensed Premises the business of the sale of

intoxicating liquor as authorised by any Liquor Licence;

- (d) a Receiver may, as if he was the licensee under any Liquor Licence, do whatever the Receiver may, in his absolute discretion, determine is necessary or desirable in relation to the Liquor Licence in accordance with the Licensing Order;
- (e) a Receiver may undertake or complete any works of repair, building or development on any Real Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same;
- (f) a Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Real Property and may grant any other interest or right over any Real Property on any terms, and subject to any conditions, that he thinks fit;
- (g) a Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit and a Receiver may discharge any such person or any such person appointed by the Chargor;
- (h) a Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit;
- (i) a Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that Diageo may prescribe or agree with him;
- (j) a Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights;
- (k) a Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor;
- (l) a Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit and any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold;
- (m) a Receiver may sever and sell separately any fixtures or fittings from any Real Property without the consent of the Chargor;
- (n) a Receiver may sell and assign all or any of the Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit;
- (o) a Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets;
- (p) a Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient;
- (q) a Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit;
- (r) a Receiver may make substitutions of, or improvements to, all or any part of the Secured Assets as he may think expedient;
- (s) a Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the

Chargor on its directors in respect of calls authorised to be made by them;

- (f) a Receiver may, if he thinks fit, but without prejudice to the indemnity in Clause 5 (*Expenses, liability & indemnity*), effect with any insurer any policy of insurance either *in lieu* or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this Deed;
- (u) a Receiver may exercise all powers provided for in the Conveyancing and Law of Property Act 1881 and the Conveyancing Act 1911 in the same way as if he had been duly appointed under the Conveyancing and Law of Property Act 1881;
- (v) a Receiver may, for any of the purposes authorised by this Clause 13.3.4, raise money by borrowing from Diageo (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if Diageo consents, terms under which that security ranks in priority to this Deed);
- (w) a Receiver may redeem any prior Security Interest and settle and pass the accounts to which the Security Interest relates and any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver;
- (x) a Receiver may delegate his powers in accordance with this Deed;
- (y) a Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets; and
- (z) a Receiver may do any other acts and things (i) that he may consider desirable or necessary for realising any of the Secured Assets, (ii) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; and (iii) that he lawfully may or can do as agent for the Chargor.

13.3.5 Diageo will, if it enforces this Deed itself, have, in respect of the assets which are the subject of the enforcement, the same powers as a Receiver would have had if he were duly appointed as the Receiver of the Chargor (notwithstanding that Diageo is not, and nothing set out in this Deed shall be deemed to constitute Diageo as, a Receiver).

13.3.6 Except to the extent provided by law, none of the powers described in this Clause 13 (*Enforcement*) will be affected by an Insolvency Event in relation to the Chargor.

13.4 Status and remuneration of Receiver

13.4.1 A Receiver will be the agent of the Chargor until the Chargor goes into liquidation. He will have no authority to act as agent for Diageo, even in the liquidation of the Chargor.

13.4.2 Diageo may from time to time determine the remuneration of any Receiver.

13.5 Appropriation of Financial Collateral

13.5.1 To the extent that any of the Secured Assets constitutes Financial Collateral and this Deed and the Obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, Diageo shall have the right, at any time after this Deed has become enforceable, to appropriate all or any of that part of relevant Secured Assets in or towards the payment and/or discharge of the Secured Obligations in such order as Diageo in its absolute discretion may from time to time determine.

13.5.2 The value of the Secured Assets appropriated in accordance with this Clause 13.5 (*Appropriation of Financial Collateral*) shall be (i) in the case of cash, the amount of cash appropriated and (ii) in the case of any Investment, the market price of such Investment

determined by Diageo in its absolute discretion.

- 13.5.3 The Chargor agrees that the method of valuation provided for in this Clause 13.5 (*Appropriation of Financial Collateral*) is commercially reasonable for the purposes of the Financial Collateral Regulations.

13.6 Third parties

- 13.6.1 A person dealing with Diageo or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:

- (a) those persons have the power to do those things which they are purporting to do; and
- (b) they are exercising their powers properly.

- 13.6.2 The receipt of Diageo or a Receiver shall be conclusive discharge to a purchaser and, in making a Disposal of all or any part of the Secured Assets, Diageo or Receiver may do so for such consideration, in such manner and on such terms as it considers fit.

14. POWERS OF DIAGEO

14.1 Notification of subsequent Security Interest and opening of new account

If Diageo receives notice that any Security Interest has been created over Secured Assets which is not a Permitted Security Interest, Diageo will be treated as if it had immediately opened a new account for the Chargor and all payments received by Diageo from the Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the Chargor to Diageo.

14.2 Remediation of breaches and exclusion of liability as mortgagee in possession

Diageo shall be entitled (but shall not be bound) to remedy a breach at any time by the Chargor of any of its Obligations contained in this Deed and the Chargor irrevocably authorises Diageo and its agents to do all such things as are necessary or desirable for that purpose. The Rights of Diageo under this Clause 14.2 (*Remediation of breaches and exclusion of liability as mortgagee in possession*) are without prejudice to any other Rights of Diageo under this Deed. The exercise of those Rights shall not make Diageo liable to account as a mortgagee in possession.

14.3 Redemption of prior Security Interests

- 14.3.1 At any time during an Enforcement Time, Diageo may (a) redeem any prior Security Interest, or procure its transfer to itself and (b) settle any account of the holder of any prior Security Interest.

- 14.3.2 The settlement of any such account shall be conclusive and binding on the Chargor. All monies paid by Diageo to an encumbrancer in settlement of such an account shall, as from its payment by Diageo, be due from the Chargor to Diageo on current account, shall bear default interest (calculated at the Default Rate) up to and including the date of actual payment (both before and after judgment) and be secured as part of the Secured Obligations.

14.4 Currency conversion

- 14.4.1 For the purpose of, or pending the discharge of, any of the Secured Obligations, Diageo may convert any monies received, recovered or realised by Diageo under this Deed (including the proceeds of any previous conversion under this Clause 14.4 (*Currency conversion*)) from their existing currencies of denomination into such other currencies of denomination as Diageo may think fit.

14.4.2 Any such conversion shall be effected at the exchange rate notified to Diageo by such reputable bank or financial institution as Diageo may determine as being the prevailing rate of exchange for such other currency against the existing currency on the date on which Diageo wishes to effect such conversion.

14.4.3 Each reference in this Clause 14.4 (*Currency conversion*) to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

14.5 Indulgence

Diageo may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person or persons not being a party to this Deed (whether or not such person or persons is jointly liable with the Chargor) in respect of any of the Secured Obligations, or of any other security for them without prejudice either to this Deed or to the liability of the Chargor for the Secured Obligations.

14.6 Remediation by Diageo

If the Chargor does not comply with its Obligations under any Diageo Document, Diageo may do so on the Chargor's behalf on such basis as Diageo may in its absolute discretion decide. The Chargor will indemnify Diageo on demand against the amount certified by Diageo to be the cost, loss or liability suffered by it as a result of doing so.

15. APPLICATION OF PROCEEDS

15.1 All monies received by Diageo or a Receiver in the exercise of any enforcement powers conferred by this Deed shall be applied:

15.1.1 first in paying all unpaid fees, costs and other liabilities incurred by or on behalf of Diageo (and any Receiver, attorney or agent appointed by it);

15.1.2 second in paying the remuneration of any Receiver (as agreed between the Receiver and Diageo);

15.1.3 third in or towards discharge of the Secured Obligations in such order and manner as Diageo determines; and

15.1.4 finally in paying any surplus to the Chargor or any other person entitled to it.

15.2 Neither Diageo nor any Receiver shall be bound (whether by virtue of Section 24(8) of the Conveyancing and Law of Property Act 1881, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Obligations.

15.3 All monies received by Diageo or a Receiver under this Deed may, at the discretion of Diageo or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between Diageo and the Chargor, and may be held in such account for so long as Diageo or Receiver thinks fit.

16. DELEGATION

16.1 Diageo or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any Right conferred on it by this Deed (including the power of attorney granted under Clause 17 (*Power of attorney*)).

16.2 Diageo and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

- 16.3 Neither Diageo nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

17. POWER OF ATTORNEY

- 17.1 The Chargor, by way of security, irrevocably appoints each of Diageo, every Receiver and every Delegate severally to be its attorney and, in its name, on its behalf and as its act and deed (i) to do anything which the Chargor is obliged to do under this Deed, (ii) to exercise any of the Rights conferred on the attorney by this Deed and (iii) to do any acts and things that the attorney deems proper or desirable in exercising any of the Rights conferred by this Deed or by law on Diageo, any Receiver or any Delegate.

- 17.2 The Chargor irrevocably and unconditionally hereby ratifies and confirms and agrees that it shall ratify and confirm all things done and all documents executed by any such attorney in the exercise or purported exercise of all or any of the rights, powers, authorities and discretions referred to in this Clause 17 (*Power of attorney*).

18. NOTICES

- 18.1 Any notice or demand by Diageo may be served:

- 18.1.1 personally on the Chargor or (where the Chargor is a body corporate) personally on any director or the secretary of the Chargor or any other officer of the Chargor and, in each such case, such notice or demand shall be deemed served at the time of delivery;

- 18.1.2 by leaving it at the Chargor's principal place of business or to the Chargor's address last known to Diageo or (where the Chargor is a body corporate) at the registered office of the Chargor and, in each such case, such notice or demand shall be deemed served at the time of delivery; or

- 18.1.3 by post to the Chargor's principal place of business or to the Chargor's address last known to Diageo or (where the Chargor is a body corporate) to the registered office of the Chargor and, in each such case, such notice or demand shall be deemed served on the day after posting and, to prove delivery, it shall be sufficient to prove that the envelope containing the notice or demand was properly addressed and posted; and

- 18.1.4 by fax to the Chargor at the Chargor's fax number last known to Diageo and such notice or demand shall be deemed served at the time of sending and, to prove delivery, it shall be sufficient to prove that the notice or demand was transmitted by fax to the fax number of the Chargor.

- 18.2 The address of Diageo in Northern Ireland for the service of notices is:

Address: Third Floor Capital House, 3 Upper Queen Street, Belfast
Attention: Tied Trade Investment Manager

or to such other address or fax number as Diageo may, from time to time, advise the Chargor.

- 18.3 Any communication or document (including any notice) to be made or delivered to Diageo under or in connection with this Deed will be effective only when actually received by Diageo and then only if it is received in legible form and expressly marked for the attention of the department or officer identified in Clause 18.2 (or any substitute department or officer as Diageo shall specify for this purpose).

- 18.4 Service by email is not permitted under this Deed. Save where expressly permitted in writing by Diageo, service by fax on Diageo is not permitted under this Deed.

- 18.5 All communications or documents served under this Deed (including any notice or demand) must be in the English language.

19. FURTHER PROVISIONS

- 19.1 This Deed shall be in addition to, and independent of, every other security or guarantee which Diageo may hold for any of the Secured Obligations at any time. No prior security held by Diageo over the whole or any part of the Secured Assets shall merge in the security created by this Deed.
- 19.2 Any release, discharge or settlement between the Chargor and Diageo shall be deemed conditional on no payment or security received by Diageo in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement Diageo or its nominee may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for such period as Diageo deems necessary to provide Diageo with security against any such avoidance, reduction or order for refund and Diageo may recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.
- 19.3 The Rights and powers of Diageo conferred by this Deed are cumulative, may be exercised as often as Diageo considers appropriate, and are in addition to its Rights and powers under the general law.
- 19.4 Any waiver or variation of any right by Diageo (whether arising under this Deed or under the general law) shall only be effective if it is in writing and signed by Diageo and applies only in the circumstances for which it was given, and shall not prevent Diageo from subsequently relying on the relevant provision.
- 19.5 No act or course of conduct or negotiation by or on behalf of Diageo shall, in any way, preclude Diageo from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.
- 19.6 No delay or failure to exercise any right or power under this Deed shall operate as a waiver.
- 19.7 No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.
- 19.8 The provisions of Section 17 (*Restriction on consolidation of mortgages*) of the Conveyancing and Law of Property Act 1881 shall not apply to this Deed.
- 19.9 Any liberty or power which may be exercised or any determination which may be made hereunder by Diageo may be exercised or made in the absolute and unfettered discretion of Diageo which shall not be under any Obligation to give reasons therefor.
- 19.10 Diageo shall not be under any liability for any loss of any kind which may be occasioned by the exercise or purported exercise of, or any delay or neglect to exercise, any of its Rights under this Deed.
- 19.11 Where there is more than one person acting as the Chargor, the liability of each such person hereunder shall be joint and several and every agreement, undertaking, covenant, representation and warranty on the part of the Chargor shall be construed accordingly and all references to the Chargor herein shall where the context requires or admits be construed as references to any one or more of them. If the whole or any part of this Deed be now or hereafter unenforceable against any person acting as the Chargor for any reason whatsoever or if this Deed is not executed by any person acting as the Chargor or if any person acting as the Chargor is released or if Diageo decides in its absolute discretion not to pursue all or any

of its Rights against any person acting as the Chargor, this Deed shall nevertheless be and remain fully binding upon and enforceable against each of the other persons listed as the Chargor as if it had been made by Diageo with only such other persons.

- 19.12** The Chargor waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by the Chargor under this Deed).
- 19.13** The Chargor waives any present or future right of appropriation it may have in respect of any amounts payable by it to Diageo.
- 19.14** The Chargor may not assign, transfer, novate or otherwise Dispose of its Obligations under any of the Diageo Documents.
- 19.15** Diageo may assign, transfer, novate or otherwise dispose of all or any part of its Rights and Obligations under the Diageo Documents without restriction and the Chargor hereby irrevocably and unconditionally consents to such assignment, transfer, novation or other disposal and consents to the disclosure by Diageo to any proposed assignee, transferee, novatee or other purchaser or acquirer of such Rights and Obligations of all financial and other information relating to the Chargor as Diageo may, from time to time, consider relevant.
- 19.16** If, at any time, any provision of this Deed 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 nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.
- 19.17** In the exercise of any of Diageo's Rights under this Deed in respect of or in relation to any Deposit, the Rights of Diageo shall apply without restriction and notwithstanding that all or part of the Deposit may have been deposited for a fixed or minimum period or be subject to a period of notice, any interest on the Deposit is calculated by reference to a fixed or minimum periods and/or any such fixed or minimum period or period of notice may or may not have been given. The Chargor irrevocably authorises Diageo at any time which is an Enforcement Time to break or determine such Deposit in whole or in part and/or to renew all or any of such Deposit for such fixed periods as Diageo may, in its absolute discretion, from time to time think fit.
- 19.18** The provisions of this Deed shall remain enforceable, valid and binding for all purposes notwithstanding any change in the name of Diageo or its absorption of, or by, or amalgamation or consolidation with, any other company or any change in the constitution of Diageo, its successors or assigns or the body corporate by which the business of Diageo may from time to time be carried on and shall be available to such successors, assigns or body corporate carrying on that business for the time being.

20. GOVERNING LAW AND JURISDICTION

- 20.1** This Deed and any non-contractual Obligations arising out of or in connection with it are governed by Northern Irish law.
- 20.2** The courts of Northern Ireland shall, save as provided for in Clause 20.4 below have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual Obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a "Dispute").
- 20.3** The Chargor agrees that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and, accordingly, the Chargor agrees not to argue to the contrary.

- 20.4 Clause 20.2 and Clause 20.3 are for the benefit of Diageo only. As a result, Diageo will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Diageo may take concurrent proceedings in any number of jurisdictions.
- 20.5 The Chargor irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this Deed being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

This DEED has been EXECUTED as a DEED, and it has been delivered on the date stated at the beginning of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART A - SECURED REAL PROPERTY**

Description of Secured Real Property

None charged pursuant to this Deed.

Description of any Real Property Lease(s) affecting the Secured Real Property

None at the date of this Deed.

Description of any Real Property Licence(s) affecting the Secured Real Property

None at the date of this Deed.

Description of any Collateral Securities

None at the date of this Deed.

Description of any Construction Rights

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART B - THE CHATTELS**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART C - THE INVESTMENTS**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART D - THE INSURANCES**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART E - THE CONTRACTS**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART F - THE ACCOUNTS**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART G - THE INTELLECTUAL PROPERTY**

None at the date of this Deed.

**SCHEDULE 1 - SECURED ASSETS
PART H - BUSINESS LICENCES**

None at the date of this Deed.

DEBENTURE - EXECUTION PAGE

THE CHARGOR

**EXECUTED and DELIVERED as a DEED by
CARLANE LIMITED**

(incorporated in Northern Ireland with company number NI613655)
acting by a single director in the presence of a witness

Witness signature: _____

Print name: _____

Occupation: _____

Address: _____

JASON THOMPSON
SOLICITOR
40 LINCOLN STREET
BOLTON BT2 8BA

Director Name: _____

DIAGEO

**EXECUTED and DELIVERED as a DEED by
DIAGEO NORTHERN IRELAND LIMITED**

(incorporated in Northern Ireland with company number NI003755)
acting by a single director in the presence of a witness

Witness signature: _____

Print name: _____

Occupation: _____

Address: _____

Director Name: _____