



Registration of a Charge

Company Name: **NEAME LEA FRESH LIMITED**

Company Number: **06653357**



Received for filing in Electronic Format on the: **28/06/2021**

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Details of Charge

Date of creation: **21/06/2021**

Charge code: **0665 3357 0008**

Persons entitled: **TOSCAFUND GP LIMITED AS SECURITY TRUSTEE FOR THE SECURED PARTIES (SECURITY AGENT)**

Brief description: **NOT APPLICABLE.**

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: **ADDLESHAW GODDARD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6653357

Charge code: 0665 3357 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st June 2021 and created by NEAME LEA FRESH LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th June 2021 .

Given at Companies House, Cardiff on 29th June 2021

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 **21 June** **2021**

PROJECT GIANT BIDCO LIMITED AND OTHERS
TOSCAFUND GP LIMITED

**COMPOSITE GUARANTEE
AND DEBENTURE**

This Composite Guarantee and Debenture is subject to the terms of an Intercreditor Agreement

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This Deed is made on

21 June 2021

Between

- (1) **THE COMPANIES** listed in Schedule 1 (The Original Obligors) (**Original Obligors**); and
- (2) **TOSCAFUND GP LIMITED** (No. 06942099) whose registered office is at Ferguson House, 15 Marylebone Road, 5th Floor, London, NW1 5JD as security trustee for the Secured Parties (as defined below) (**Security Agent**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Accession Deed means a deed substantially in the form set out in Part 1 of Schedule 7 (Additional)

Account Bank means a person with whom an Obligor maintains an account

Additional Guarantor has the meaning given to it in the Facility Agreement

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration

Bridge Farm means the leasehold property known as Bridge Farm, Horseshoe Road, Spalding PE11 3BE with HM Land Registry title number LL378270, the registered proprietor of which is Neame Lea Nursery Limited (company number 07309198) together with any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that property

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London

Chattels means the equipment, plant, machinery, tools, furniture, fittings, installations and apparatus, goods, chattels, or other tangible movable property described in Schedule 2 (Specified Assets) or described in the schedule to any Supplemental Debenture or Accession Deed (including any component parts of those assets from time to time owned by an Obligor (whether or not attached to those assets)), together with all additions, alterations, substitutions, replacements, renewals or modifications of or to those assets from time to time, and all accessories to those assets from time to time (including maintenance and other records, manuals, handbooks, data, drawings and schematics relating to those assets or documents relating to warranties and patent indemnities given by manufacturers or suppliers of those assets)

Clay Lake means the freehold property known as Land on the South side of Clay Lake Bank, Spalding PE12 6RN with HM Land Registry title number LL382598, the registered proprietor of which is Bridge Farm Nurseries Limited (company number 04184232) together with any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that property

Designated Account means:

- (a) the accounts (if any) specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed
- (b) any account from time to time substituted for or additional to any such account (including in each case such account as redesignated and/or renumbered from time to time)

Designated Contract means the contracts (if any) specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed

Enforcement Event has the meaning given to it in Clause 9.1 (Enforcement Events)

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground)
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers)
- (c) land (including, without limitation, land under water)

Environmental Claim any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment
- (b) the conditions of the workplace
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste

Environmental Permits any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any Obligor conducted on or from the properties owned or used by any Obligor

Event of Default has the meaning given to it in the Facility Agreement

Facility Agreement means the facility agreement dated on or about the date of this Deed entered into between (1) Project Giant Bidco Limited as parent (2) the Original Obligors as original guarantors (3) Tosca Debt Capital (Luxembourg) III S.à r.l as original lender (4) Tosca Debt Capital (Luxembourg) III S.à r.l as mandated lead arranger (5) Toscafund GP Limited as agent and (6) the Security Agent (as amended, supplemented or varied from time to time)

Finance Document has the meaning given to it in the Facility Agreement

First Ranking Security Documents has the meaning given to Senior Transaction Security Documents in the Intercreditor Agreement

Group means each Obligor and each of their respective Subsidiaries for the time being

Headlease means a lease under which any Obligor holds title to all or any part of a Mortgaged Property

Horseshoe Nursery means the leasehold property known as Horseshoe Nursery, Horseshoe Road Spalding PE11 3JB with HM Land Registry title number LL375911, the registered proprietor of which is Neame Lea Nursery Limited (company number 07309198) together with any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that property

Insurance means any contract of insurance required under Clause 7.4 (Insurances)

Insurance Rights has the meaning given to it in Clause 2.9 (Insurances)

Intellectual Property Rights means:

- (a) all present and future patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, in each case whether registered or unregistered;
- (b) the benefit of all applications and rights to use such assets

Intercreditor Agreement has the meaning given to it in the Facility Agreement

Investments means:

- (a) the shares (if any) specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed
- (b) all other shares, stocks, debentures, bonds or other securities or investments owned by any Obligor or held by any nominee or trustee on its behalf

Legal Reservations means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors
- (b) the time barring of claims under the Limitation Act 1980 and the Foreign Limitation Periods Act 1984, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction

LPA 1925 means the Law of Property Act 1925

Material Adverse Effect means, in the reasonable opinion of the Security Agent, a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of any Obligor
- (b) the ability of any Obligor to perform its obligations under this Deed

- (c) subject to the Legal Reservations and Perfection Requirements, the validity or enforceability of, or the effectiveness or ranking of any Security granted or purported to be granted pursuant to this Deed or the rights or remedies of any Secured Party under this Deed

Mortgaged Property means all freehold or leasehold property included in the definition of Security Asset

Obligor means an Original Obligor or an Additional Guarantor unless it has ceased to be an Obligor in accordance with Clause 20 (Changes to the parties)

Obligors' Agent means Project Giant Bidco Limited a company incorporated in England and Wales (Registered number 12586015) whose registered office is at 1-4 London Road, Spalding, Lincolnshire, England, PE11 2TA

Party means a party to this Deed

Perfection Requirements means the making or procuring of appropriate registrations, notifications, acceptances, acknowledgements, filings, endorsements, stampings and/or notifications of this Deed and/or the Security created thereunder

Permitted Disposal has the meaning given to that term in the Facility Agreement

Permitted Security has the meaning given to that term in the Facility Agreement

Permitted Transaction has the meaning given to that term in the Facility Agreement

Receiver means a receiver or receiver and manager or administrative receiver, in each case appointed under this Deed

Relevant Jurisdiction means, in relation to an Obligor:

- (a) the jurisdiction under whose laws it is incorporated at the date of this Deed
- (b) any jurisdiction where any asset subject to or intended to be subject to the Security created by this Deed is situated
- (c) any jurisdiction where it conducts its business
- (d) the jurisdiction whose laws govern the perfection of this Deed

Resignation Letter means a letter substantially in the form set out in Schedule 8 (Form of resignation letter)

Second Lien Transaction Security Documents has the meaning given to it in the Intercreditor Agreement

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under each Finance Document

Secured Party means the Security Agent, each Finance Party from time to time party to the Facility Agreement, any Receiver or Delegate

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

Security Asset means all of the assets of any Obligor which from time to time are, or are expressed to be, the subject any Security created by this Deed

Security Period means the period beginning on the date of this Deed and ending on the Discharge Date (as defined in the Security Trust Deed)

Security Trust Deed means a security trust deed dated on or about the date of this deed and entered into by (1) Tosca Debt Capital (Luxembourg) III S.à r.l as Original Creditor, (2) Project Giant Bidco Limited as parent, (3) the Original Obligors as debtors and the Security Agent

Senior Discharge Date has the meaning given to it in the Intercreditor Agreement

Senior Finance Document has the meaning given to it in the Facility Agreement

Senior Security Agent has the meaning given to it in the Intercreditor Agreement

Specified Companies means each of Project Seed Topco Limited (company number 10802140), Project Seed Bidco Limited (company number 10752565), Bridge Farm Nurseries Limited (company number 04184232), Neame Lea Marketing Limited (company number 07632692), Neame Lea Fresh Limited (company number 06653357), Neame Lea Nursery Limited (company number 07309198), Zyon UK Flowers and Plants Limited (company number 05494756) and Riverside Horticultural Marketing Limited (company number 05773041)

Subsidiary means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 or a subsidiary within the meaning of section 1159 of the Companies Act 2006

Supplemental Debenture means a document substantially in the form set out in Schedule 6 (Form of supplemental debenture)

Tax means any tax, 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)

1.2 Interpretation

Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.

1.3 Construction

(a) Unless a contrary indication appears, a reference in this Deed to:

- (i) any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Deed;
- (ii) **assets** includes present and future properties, revenues and rights of every description;

- (iii) **costs** includes all costs, fees, charges and expenses of any nature and includes any Tax charged on any of them;
- (iv) this **Deed**, a **Finance Document** or any other agreement or instrument is a reference to this Deed or that other agreement or instrument as amended, novated, supplemented, extended or restated in any manner (and however fundamentally) from time to time;
- (v) any **rights** in respect of an asset includes:
 - (A) all amounts and proceeds paid or payable;
 - (B) all rights to make any demand or claim; and
 - (C) all powers, remedies, causes of action, security, guarantees and indemnities,
 in each case in respect of or derived from that asset;
- (vi) any **share, stock, debenture, bond or other security or investment** includes:
 - (A) any dividend, interest or other distribution paid or payable;
 - (B) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,
 in each case in respect of that share, stock, debenture, bond or other security or investment;
- (vii) **disposal** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and "dispose" will be construed accordingly;
- (viii) **guarantee** means (other than in Clause 3 (Guarantee and indemnity)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (ix) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (x) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

- (xii) a provision of law is a reference to that provision as amended or re-enacted.
- (b) Clause and Schedule headings are for ease of reference only.
- (c) Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- (d) The words **including** shall not be construed as limiting the generality of the words preceding it.
- (e) An Enforcement Event is **continuing** if it has not been waived.
- (f) Any covenant of an Obligor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (g) The terms of any other agreement or instrument between the Parties are incorporated in this Deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (h) If the Security Agent considers that an amount paid to a Secured Party in connection with this Deed is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (i) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.
- (j) The obligations of the Obligors under this Deed are joint and several.
- (k) It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

1.4 **Third party rights**

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (**Third Parties Act**) to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to Clause 1.4(b) above and the provisions of the Third Parties Act.

1.5 **Intercreditor agreement**

This Deed is subject to the terms of the Intercreditor Agreement.

1.6 **Second-ranking Security**

- (a) All security created under this Deed is created in addition to and does not affect the security created by the First Ranking Security Documents;

- (b) Where this Deed purports to create a first fixed security interest over an asset secured by the First Ranking Security Documents, that security interest will be a second ranking security interest ranking subject to the equivalent security interest created by the First Ranking Security Documents until the earlier of the Senior Discharge Date or the date on which such asset is not subject to a charge under the First Ranking Security Documents. All references in this Deed to "full title guarantee" shall be qualified by reference to the First Ranking Security Documents;
- (c) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the First Ranking Security Documents and the same asset or right is expressed to be assigned again under this Deed, that second assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment on the earlier of the Senior Discharge Date or the date on which such right or asset is not subject to an assignment under the First Ranking Security Documents; and
- (d) Where a document has already been provided or an action has been taken under the First Ranking Security Documents by an Obligor, and to the extent not possible for an Obligor to comply with an equivalent action under the Second Lien Transaction Security Documents, it shall be treated as having also been delivered or completed under this Deed on the date of this Deed or on the date of which such document is provided or such action is taken under the First Ranking Security Documents (if such document is provided or action is taken after the date of this Deed)

2 Creation of security

2.1 General

- (a) Each Obligor must pay or discharge the Secured Liabilities as and when the same are due.
- (b) All the security created under this Deed:
 - (i) is created in favour of the Security Agent;
 - (ii) is created over present and future assets of the Obligors;
 - (iii) is security for the payment of all the Secured Liabilities; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

2.2 Real property

- (a) Each Obligor charges:
 - (i) by way of a legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes its real property (if any) specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed; and
 - (ii) (to the extent that they are not the subject of a mortgage under paragraph a) above) by way of a fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it.

- (b) A reference in this Clause 1.6(d) to a mortgage or charge of any freehold or leasehold property includes:
 - (i) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
 - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of any Obligor in respect of that property or any moneys paid or payable in respect of those covenants.

2.3 **Chattels**

- (a) Each Obligor charges:
 - (i) by way of a legal mortgage, the Chattels owned by it; and
 - (ii) (to the extent that they are not the subject of a mortgage under paragraph a) above) by way of a fixed charge all Chattels now or subsequently owned by it.
- (b) A reference in this Clause 2.3 to a Chattel includes the benefit of all other contracts, guarantees, appointments and warranties relating to the Chattels.

2.4 **Investments**

Each Obligor charges by way of a fixed charge its interest in all its Investments.

2.5 **Plant and machinery**

To the extent that they are not the subject of a mortgage or a fixed charge under Clauses 2.2 (Real property) or 2.3 (Chattels), each Obligor charges:

- (a) by way of a fixed charge, all plant and machinery (if any) specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed and its interest in any such plant and machinery; and
- (b) (to the extent that they are not the subject of a fixed charge under clause 2.5(a) above) by way of a fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession.

2.6 **Credit balances**

- (a) Each Obligor charges by way of a fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.
- (b) Each Obligor charges by way of a fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in Clause 2.6(a) above, any amount standing to the credit of any such account and the debt represented by it.

2.7 **Intellectual Property Rights**

- (a) Each Obligor charges by way of a fixed charge all of its Intellectual Property Rights specified in Schedule 2 (Specified Assets) or in the schedule to any Supplemental Debenture or Accession Deed.

- (b) Each Obligor charges by way of a fixed charge of all of all its Intellectual Property Rights other than the Intellectual Property Rights referred to in Clause 2.7(a) above.

2.8 **Book debts etc.**

Each Obligor charges by way of a fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights in relation to any item under Clauses 2.8(a) to 2.8(b) above.

2.9 **Insurances**

- (a) Each Obligor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under any contract or policy of insurance taken out by it or on its behalf or in which it has an interest (together, the **Insurance Rights**).
- (b) To the extent that they have not been effectively assigned under Clause 2.9(a) above, each Obligor charges by way of a fixed charge all of its Insurance Rights.

2.10 **Other contracts**

- (a) Each Obligor:
 - (i) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
 - (A) under each Designated Contract; and
 - (B) under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and
 - (ii) charges by way of a fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this Clause 1.6(d).
- (b) To the extent that they have not been effectively assigned under Clause 2.10(a)(i) above, each Obligor charges by way of a fixed charge all of its rights listed under Clause 2.10(a)(i) above.

2.11 **Other assets**

Each Obligor charges by way of fixed charge:

- (a) its goodwill;
- (b) the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- (c) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in Clause 2.11(b) above;
- (d) its uncalled capital; and

- (e) the benefit of all rights in relation to any item under paragraphs 2.11(a) to 2.11(d) above.

2.12 Floating charge

- (a) Each Obligor charges by way of a floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this Clause 1.6(d).
- (b) Except as provided below, the Security Agent may by notice to an Obligor convert the floating charge created by this Clause 2.12 (Floating charge) into a fixed charge as regards any of the Obligor's assets specified in that notice if:
 - (i) an Enforcement Event is continuing;
 - (ii) the Security Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy; or
 - (iii) the Security Agent considers that it is desirable in order to protect the priority of the Security created by this Deed.
- (c) Subject to paragraph 2.12.4 below, the floating charge created by this Clause 2.12 (Floating charge) may not be converted into a fixed charge solely by reason of:
 - (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium,under Part A1 of the Insolvency Act 1986.
- (d) Paragraph 2.12.3 above does not apply in respect of any floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.
- (e) The floating charge created by this Clause 2.12 (Floating charge) will (in addition to the circumstances when this may occur under the general law) automatically convert into a fixed charge over all of the Obligors' assets (including those subsequently acquired by the Obligors) if:
 - (i) any steps are taken for any of the Security Assets to become subject to any Security in favour of any other person;
 - (ii) any person levies or attempts to levy any distress, execution or other process or exercises any enforcement power against any of the Security Assets; or
 - (iii) a resolution is passed or an order is made for the winding-up, dissolution or re-organisation of or any steps are taken for the appointment of an administrator in respect of any Obligor.
- (f) The floating charge created by this Clause 2.12 (Floating charge) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

3 Guarantee and indemnity

3.1 Guarantee and indemnity

Each Obligor irrevocably and unconditionally jointly and severally:

- (a) guarantees to the Security Agent punctual performance by each other Obligor of the Secured Liabilities;
- (b) undertakes with the Security Agent that whenever another Obligor does not pay any amount of the Secured Liabilities when due, that Obligor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with the Security Agent that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Agent immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it on the date when it would have been due. The amount payable by an Obligor under this indemnity will not exceed the amount it would have had to pay under this Clause 3 if the amount claimed had been recoverable on the basis of a guarantee.

4 Negative pledge and disposal restriction

4.1 Security

Except for the Security created by this Deed, any Permitted Security and any lien arising by operation of law and in the ordinary course of trading no Obligor shall create or permit to subsist any Security on any of its Security Assets.

4.2 Disposals

- (a) No Obligor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any Security Asset.
- (b) Clause 4.2(a) does not apply to any disposal made in the ordinary course of trading of any asset subject to the floating charge created under this Deed, a Permitted Disposal or Permitted Transaction.

5 Perfection of security

5.1 Real Property

(a) Acquisitions

If any Obligor acquires any freehold or leasehold property in England and Wales after the date of this Deed it must:

- (i) notify the Security Agent immediately;
- (ii) immediately on request by the Security Agent and at the cost of the Obligors, execute and deliver to the Security Agent a Supplemental Debenture creating a legal mortgage over that property in favour of the Security Agent; and

(iii)

- (A) if the title to that freehold or leasehold property is registered at HM Land Registry or required to be so registered, give HM Land Registry written notice of the Security created by this Deed and any Supplemental Debenture; and
- (B) if applicable, ensure that the Security created by this Deed and any Supplemental Debenture is correctly noted against that title in the title register at HM Land Registry.

(b) **Land Registry**

- (i) Each Obligor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at HM Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated ♦ in favour of ♦ referred to in the charges register or their conveyancer. (Standard Form P)".

- (ii) Each Obligor consents to an application being made to the Chief Land Registrar to enter a note on the Register of Title relating to its Mortgaged Property registered at HM Land Registry that there is an obligation to make further advances on the security of this Deed.

(c) **Deposit of title deeds**

Each Obligor must immediately on the date of this Deed (or, if later, the date of its acquisition of the corresponding Security Asset):

- (i) procure that the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) holds all deeds and documents necessary to show good and marketable title to any Mortgaged Property (**Title Documents**) pursuant to clause 3.7 (Title documents) of the Intercreditor Agreement;
- (ii) procure that the Title Documents are held at the applicable Land Registry to the order of the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties); or
- (iii) procure that the Title Documents are held to the order of the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) by a firm of solicitors approved by the Security Agent for that purpose.

5.2 Chattels

Each Obligor shall, if the Security Agent so requests, fix to any Chattel a sign stating:

"This ♦ is the subject of a mortgage in favour of Toscafund GP Limited dated ♦ 2021."

and shall not, without the Security Agent's prior written consent, remove or conceal such sign or permit it to be removed or concealed.

5.3 Investments

- (a) Each Obligor must immediately on the date of this Deed:
 - (i) deposit with the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) or as the Security Agent may direct, all certificates and other documents of title or evidence of ownership in relation to its Investments; and
 - (ii) execute and deliver to the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) all share transfers and other documents which may be requested by the Security Agent in order to enable the Security Agent or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.
- (b) The Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) is entitled to hold all certificates and other documents of title or evidence of ownership in relation to the Investments throughout the Security Period.
- (c) Promptly upon the accrual, offer or issue to any Obligor of any Investments in the form of stocks, shares, warrants or other securities, the Obligor must:
 - (i) procure the delivery to the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) or as the Security Agent may direct of all certificates and other documents of title or evidence of ownership in relation to such Investments; and
 - (ii) execute and deliver to the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) all share transfers and other documents which may be requested by the Security Agent in order to enable the Security Agent or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.

5.4 Credit balances

Each Obligor must:

- (a) serve a notice of charge, substantially in the form of Part 1 of Schedule 3 (Forms of letter for account bank), on each Account Bank at which a Designated Account is held, such notice to be served as soon as is reasonable practicable, and in any event within 3 Business Days of the earlier of the Senior Discharge Date or the date on which such Designated Account is not subject to a charge under the Senior Finance Documents;
- (b) within 5 Business Days of that notice being given, deliver to the Security Agent acknowledgement of the notice from the Account Bank substantially in the form of Part 2 of Schedule 3 (Forms of letter for account bank); and
- (c) promptly upon the opening of any Designated Account, and immediately on the Security Agent's request in relation to any other account, serve a notice of charge, substantially in the form of Part 1 of Schedule 3 (Forms of letter for account bank) , on the Account

Bank at which the account is held and use reasonable endeavours to ensure that the Account Bank acknowledges the notice, substantially in the form of Part 2 of Schedule 3 (Forms of letter for account bank).

5.5 Intellectual Property Rights

Each Obligor as registered proprietor appoints the Security Agent as its agent to apply for the particulars of this Deed and the interest of the Security Agent in its Intellectual Property Rights and any other or future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of the Obligor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994. Each Obligor agrees to execute all documents and forms reasonably required to enable such particulars to be entered on the Register of Trade Marks.

5.6 Insurances

(a) Notice

Each Obligor must:

- (i) serve a notice of assignment, substantially in the form of Part 1 of Schedule 4 (Forms of letter for insurers), on each counterparty to its Insurance, such notice to be served as soon as is reasonable practicable, and in any event within 3 Business Days of the earlier of the Senior Discharge Date or the date on which such Designated Account is not subject to a charge under the Senior Finance Documents; and
- (ii) use reasonable endeavours to ensure that such counterparty acknowledges that notice, substantially in the form of Part 2 of Schedule 4 (Forms of letter for insurers) within 5 Business Days of that notice being given.

(b) Deposit of contracts and policies

Each Obligor must immediately deposit with the Security Agent all contracts and policies of insurance which it is entitled to possess in relation to its Insurance Rights.

5.7 Other contracts

Each Obligor must, at the request of the Security Agent:

- (i) serve a notice of assignment or charge (as applicable), substantially in the form of Part 1 of Schedule 5 (Forms of letter for other contracts), on each counterparty to a contract listed in Clause 2.10 (Other contracts) such notice to be served as soon as is reasonable practicable, and in any event within 3 Business Days of the earlier of the Senior Discharge Date or the date on which such Designated Account is not subject to a charge under the Senior Finance Documents; and
- (ii) use reasonable endeavours to ensure that each such party acknowledges that notice, substantially in the form of Part 2 of Schedule 5 (Forms of letter for other contracts) within 5 Business Days of that notice being given.

6 Representations

6.1 General

Each Obligor makes the representations and warranties set out in this Clause 6 to the Security Agent on the date of this Deed and on each day during the Security Period by reference to the facts and circumstances then existing.

6.2 Status

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) Each of its Subsidiaries is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

6.3 Binding obligations

Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations; and
- (b) this Deed creates the Security which it purports to create and that Security is valid and effective.

6.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed, and the granting of the Security created by this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or interest binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

6.5 Power and authority

- (a) It has the power to enter into, perform and deliver and has taken all necessary action to authorise its entry into, performance and delivery of this Deed and the transactions contemplated by this Deed.
- (b) No limit on its powers will be exceeded as a result of the grant of Security created or expressed to be created in favour of the Security Agent by this Deed.

6.6 Validity and admissibility in evidence

- (a) All Authorisations required or desirable:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (ii) to make this Deed admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect.

- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect.

6.7 Governing law and enforcement

- (a) The choice of governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to this Deed in England and Wales will be recognised and enforced in its Relevant Jurisdictions.

6.8 Legal and beneficial ownership

It is the sole legal and beneficial owner of its Security Assets free from Security (other than any Permitted Security).

6.9 Investments

- (a) Each Specified Company's entire issued share capital is legally and beneficially owned and controlled by an Obligor.
- (b) Its Investments are fully paid and not subject to any option to purchase or similar rights.
- (c) There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any issuer of any of its Investment (including any option or right of pre-emption or conversion).
- (d) The constitutional documents of the issuers of its Investments do not and could not restrict or inhibit any transfer of the Investments on creation or enforcement of the Security created or expressed to be created by this Deed.
- (e) It has complied with all notices received by it pursuant to Part 21A of the Companies Act 2006 in relation to the Investments.
- (f) No "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of its Investments.
- (g) No nominations have been made in respect of its Investments.

6.10 Chattels

None of the Chattels will be treated as being fixed to any land, premises or other property.

7 General undertakings

The undertakings in this Clause 7 remain in force throughout the Security Period.

7.1 Information

- (a) Each Obligor must promptly supply to the Security Agent such information as the Security Agent may reasonably require about its Security Assets and the Obligor's compliance with the terms of this Deed.
- (b) Each Obligor shall notify the Security Agent of any default under this Deed promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

7.2 Authorisations

Each Obligor must promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Security Agent of:

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (i) enable it to perform its obligations under this Deed; and
- (ii) ensure the legality, validity, enforceability or admissibility in evidence of this Deed.

7.3 Compliance with laws

Each Obligor must comply in all respects with all laws to which it may be subject, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

7.4 Insurances

- (a) Each Obligor must ensure that at all times Insurances are maintained in full force and effect which insure it in respect of its interests in the Security Assets (including the Chattels) with such insurance companies or underwriters and to such extent and for such risks as is usual for prudent companies carrying on the same or substantially similar business to the Obligor (or as otherwise notified by the Security Agent from time to time).
- (b) Each Obligor must procure that the Senior Security Agent or, following the Senior Discharge Date, the Security Agent (as security trustee for the Secured Parties) is named as composite insured in respect of its own separate insurable interest under each of its Insurances (other than public liability and third party liability insurances), or, at the option of the Security Agent, that the interest of the Security Agent is noted on each of its Insurances and that they contain such other provisions for the protection of the Security Agent as the Security Agent may reasonably require.
- (c) Each Obligor must promptly notify the Security Agent of:
 - (i) the proposed terms of any future renewal of any of its Insurances;
 - (ii) any amendment, supplement, extension, termination, avoidance or cancellation of any of the Insurances made or, to its knowledge, threatened or pending;

- (iii) any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and
 - (iv) any event or circumstance which has led or may lead to a breach by the Obligor of any term of this Clause 7.4.
- (d) Each Obligor must:
 - (i) comply with the terms of the Insurances;
 - (ii) not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - (iii) comply with all reasonable risk improvement requirements of its insurers.
- (e) Each Obligor must ensure that:
 - (i) each premium for the Insurances is paid within the period permitted for payment of that premium; and
 - (ii) all other things necessary are done so as to keep each of the Insurances in force.
- (f)
 - (i) Except as provided below, the proceeds of any Insurances must, if the Security Agent so requires, be paid into a Designated Account specified by the Security Agent. Any such moneys standing to the credit of a Designated Account may be applied by the Security Agent in payment of any amount due but unpaid to a Secured Party under this Deed.
 - (ii) Moneys received under liability policies held by any Obligor which are required by the Obligor to satisfy established liabilities of the Obligor to third parties must be used to satisfy those liabilities.

7.5 Environmental matters

- (a) Each Obligor must:
 - (i) comply and ensure that any relevant third party complies with all Environmental Law;
 - (ii) obtain, maintain and ensure compliance with all requisite Environmental Permits applicable to it or to a Mortgaged Property; and
 - (iii) implement procedures to monitor compliance with and to prevent liability under any Environmental Law applicable to it or a Mortgaged Property,

where failure to do so has or is reasonably likely to have a Material Adverse Effect or result in any liability for the Security Agent.
- (b) Each Obligor must, promptly upon becoming aware, notify the Security Agent of:
 - (i) any Environmental Claim started, or to its knowledge, threatened in relation to it or a Security Asset;

- (ii) any circumstances reasonably likely to result in an Environmental Claim in relation to it or a Security Asset; or
 - (iii) any suspension, revocation or notification of any of its Environmental Permits or those relating to a Security Asset.
- (c) Each Obligor must indemnify the Security Agent against any loss or liability which:
- (i) the Security Agent incurs as a result of any actual or alleged breach of any Environmental Law by any person; and
 - (ii) would not have arisen if this Deed had not been entered into,
- unless it is caused by the Security Agent's gross negligence or wilful misconduct.

7.6 Investments

(a) Calls

- (i) Each Obligor must pay all calls or other payments due and payable in respect of any of its Investments.
- (ii) If an Obligor fails to do so, the Security Agent may pay the calls or other payments in respect of any of its Investments on behalf of the Obligor. The Obligor must immediately on request reimburse the Security Agent for any payment made by the Security Agent under this Clause 7.6(a) (**Calls**).

(b) Other obligations in respect of Investments

- (i) Each Obligor must promptly send a copy to the Security Agent of, and comply with all requests for, information which is within its knowledge and which are made under any law or regulation or any similar provision contained in any articles of association or other constitutional document, or by any listing or other authority, relating to any of its Investments. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of the Obligor.
- (ii) Each Obligor must comply with all other conditions and obligations assumed by it in respect of any of its Investments.
- (iii) The Security Agent is not obliged to:
 - (A) perform any obligation of any Obligor;
 - (B) make any payment;
 - (C) make any enquiry as to the nature or sufficiency of any payment received by it or any Obligor; or
 - (D) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,
 in respect of any of its Investments.

- (iv) No Obligor shall at any time during the Security Period exercise any right to nominate any person other than a Secured Party to enjoy or exercise any right relating to the Investments.
- (v) The relevant Obligors must ensure that at all times they legally and beneficially own and control the entire issued share capital of each Specified Company.
- (vi) At the request of the Security Agent, each Obligor must procure all consents, waivers and approvals which are necessary, under the articles of association of an Issuer of any Investment or otherwise, for the transfer of the Investments to the Security Agent or its nominee or to a transferee upon the enforcement of this Deed and to procure the amendment of the share transfer provisions of the articles of association of any issuer of any Investment in such manner as the Security Agent may require in order to permit such a transfer.
- (vii) No Obligor shall without the prior written consent of the Security Agent take or approve any action to amend, vary, novate, supplement, supersede, waive or terminate the articles of association of an issuer of any Investment.
- (viii) No Obligor shall take nor allow the taking of any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Investments being altered nor cause or permit any of the Investments to be consolidated, sub-divided, converted, re-organised, exchanged or repaid nor allow any further shares in the issuer of any Investment to be issued.
- (ix) Each Obligor must, within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 in relation to the Investments and promptly provide the Security Agent with a copy of that notice.

(c) **Voting rights**

- (i) Before any Security created by this Deed becomes enforceable:
 - (A) the voting rights, powers and other rights in respect of its Investments will be exercised:
 - 1) by the Obligor provided that it must not do so in a manner which is prejudicial to the interests of the Security Agent under this Deed; or
 - 2) if exercisable by the Security Agent, in any manner which the Obligor may direct the Security Agent in writing; and
 - (B) all dividends, distributions or other income paid or payable in relation to any of its Investments may be received and retained by the Obligor. If any dividends, distributions or other income paid on or derived from the Investments are paid or payable to the Security Agent or its nominees, the Security Agent or its nominees (as the case may be) must hold such dividends, distributions and other income for the Obligor and pay them to the Obligor promptly on request.
- (ii) The Security Agent will not, by following any directions of the Obligor under Clause 7.6(c)(i)(A)2) above, be construed to consent to any exercise or failure

to exercise which is prejudicial to the interests of the Security Agent under this Deed.

- (iii) Each Obligor must indemnify the Security Agent against any loss or liability incurred by the Security Agent as a consequence of the Security Agent acting in respect of any of its Investments as permitted by this Deed on the direction of the Obligor.
- (iv) After any Security created by this Deed has become enforceable:
 - (A) the voting rights, powers and other rights in respect of its Investments:
 - 1) may be exercised by the Security Agent (in the name of the Obligor and without any further consent or authority on the part of the Obligor); and
 - 2) if exercisable by the Obligor, must be exercised in any manner which the Security Agent may direct the Obligor and the Obligor must procure that its nominees (if any) comply with any such directions from the Security Agent; and
 - (B) each Obligor must hold all dividends, distributions or other income paid or payable in relation to any of its Investments on trust for the Security Agent and pay the same immediately upon receipt to the Security Agent or as it may direct.

7.7 Plant and Machinery

Each Obligor must:

- (a) immediately on request by the Security Agent, affix to any plant and machinery subject to this Deed a durable notice of this Deed in such form and location as the Security Agent may require. No Obligor shall, and it must not permit any person to, conceal, obscure, alter or remove any such notice;
- (b) not make any material alterations or additions to any plant and machinery on each Mortgaged Property which are reasonably likely to depreciate, jeopardise or prejudice their value or marketability; and
- (c) not except with the prior written consent of the Security Agent remove any plant and machinery from the Mortgaged Property except for the purpose of maintenance pursuant to the terms of this Deed;

7.8 Credit balances, book debts and receipts

- (a) Each Obligor must get in and realise its book and other debts and other moneys due and owing to it in the ordinary course of its business and hold the proceeds of the getting in and realisation (until payment into a Designated Account if required in accordance with paragraph 7.8.2 below) on trust for the Security Agent.
- (b) Each Obligor must, except to the extent that the Security Agent otherwise agrees, immediately pay all the proceeds of the getting in and realisation into a Designated Account specified by the Security Agent. Any such moneys standing to the credit of a

Designated Account may be applied by the Security Agent in payment of any amount due but unpaid to a Secured Party under this Deed.

- (c) Each Obligor must ensure that its Designated Accounts do not go into overdraft.
- (d) No Obligor shall, except to the extent that the Security Agent otherwise agrees, withdraw or transfer all or any part of any amount standing to the credit of any Designated Account or close, re-number or re-designate the Designated Account until the expiry of the Security Period.
- (e) Each Obligor must promptly pay all charges which may become due in respect of the Designated Accounts. If an Obligor fails to make any such payment the Security Agent may make that payment on behalf of the Obligor and any sums so paid by the Security Agent must be reimbursed by the Obligor on demand.
- (f) Each Obligor must, if called to do so by the Security Agent, execute a legal assignment of its book debts in such terms as the Security Agent may require and give notice of that assignment to the debtors from whom the book debts are due, owing or incurred.

7.9 Intellectual property rights

- (a) Each Obligor must:
 - (i) preserve and maintain the subsistence and validity of the Intellectual Property Rights necessary for its business;
 - (ii) use reasonable endeavours to prevent any infringement in any material respect of its Intellectual Property Rights;
 - (iii) make registrations and pay all registration fees and taxes necessary to maintain its Intellectual Property Rights in full force and effect and record its interest in those Intellectual Property Rights;
 - (iv) not use or permit its Intellectual Property Rights to be used in a way or take any step or omit to take any step in respect of its Intellectual Property Rights which may materially and adversely affect the existence or value of the Intellectual Property Rights or imperil its right to use such property;
 - (v) not discontinue the use of its Intellectual Property Rights,

7.10 Designated Contracts

Each Obligor must:

- (a) duly perform its obligations under each Designated Contract, notify the Security Agent of any material default by it or any other party under any Designated Contract and not take any action which would reduce or impede recoveries in respect of any Designated Contract;
- (b) not, without the prior written consent of the Security Agent, amend or waive any term of, terminate or release any other party from its obligations under any Designated Contract;
- (c) diligently pursue its rights under each Designated Contract (unless the Security Agent agrees otherwise in writing); and

- (d) provide to the Security Agent, as soon as practicable upon receipt, copies of all notices which it may from time to time receive from any other party to any Designated Contract.

7.11 **Goodwill**

No Obligor shall grant any franchise, licence or other authority to any person to use its company name, trade name or business name or any other business asset in a manner which will materially and adversely affect the value of its goodwill.

7.12 **Uncalled capital**

Each Obligor must:

- (a) not call up, or receive in advance of its due date, any uncalled capital;
- (b) promptly apply any paid capital towards the repayment, in full or in part, of the Secured Liabilities.

7.13 **Preservation of assets**

No Obligor shall do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Security Assets.

7.14 **Ranking of security**

Each Obligor must ensure that at all times any unsecured and unsubordinated claims of the Secured Parties against it under this Deed rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

7.15 **Access**

- (a) Each Obligor must permit the Security Agent and/or its delegates (not more than once in every financial year unless the Security Agent reasonably suspects an Enforcement Event is continuing or may occur) access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to the premises (including, without limitation, any Mortgaged Property), assets, books, accounts and records of the Obligor.
- (b) In respect of Clay Lake, Bridge Farm Nurseries Limited acknowledges the right for the Security Agent at any time to enter Clay Lake for the purpose of inspecting and removing the Chattels or any of them from Clay Lake and confirms that it shall not hinder, restrict, prevent or terminate the Security Agent's right of access to Clay Lake.
- (c) In respect of Horseshoe Nursery and Bridge Farm, Neame Lea Nursery Limited acknowledges the right for the Security Agent at any time to enter Horseshoe Nursery and Bridge Farm for the purpose of inspecting and removing the Chattels or any of them from Horseshoe Nursery or Bridge Farm and confirms that it shall not hinder, restrict, prevent or terminate the Security Agent's right of access to Horseshoe Nursery or Bridge Farm.

7.16 **Maintenance of Chattels**

Each Obligor shall:

- (a) at its own expense, maintain each Chattel in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- (b) at its own expense, renew and replace any parts of the Chattels when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value;
- (c) keep or procure to be kept accurate, complete and up to date records of all repairs, servicing and maintenance carried out on the Chattels;
- (d) permit the Security Agent, or such persons as it may nominate, at all reasonable times and on reasonable notice to enter on any premises of the Obligors to effect such maintenance or repairs to the Chattels as the Security Agent or its nominee considers necessary; and
- (e) not permit any Chattel to be:
 - (i) used or handled, other than by properly qualified and trained persons;
 - (ii) modified, upgraded, supplemented or altered other than for the purpose of effecting maintenance or repairs permitted by this deed;
 - (iii) annexed, fixed or otherwise secured to any premises, land or buildings if the result of such action or omission is that the Chattel, or any part of it, would or might become a fixture or fitting;
 - (iv) to be overloaded or used for any purpose for which it is not designed or reasonably suitable or in any manner which would invalidate or otherwise prejudice any Insurance; or
 - (v) taken out of a property charged by an Obligor to the Security Agent.

8 Property undertakings

The undertakings in this Clause 8 remain in force throughout the Security Period.

8.1 Title

- (a) Each Obligor must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property.
- (b) No Obligor shall agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property.
- (c) Each Obligor must promptly take all such steps as may be necessary or desirable to enable the Security created by this Deed to be registered, where appropriate, at the applicable Land Registry.

8.2 Occupational Leases

No Obligor shall without the consent of the Security Agent:

- (a) grant, or enter into any agreement to grant, any lease or licence or other right of occupation or right to receive rent for all or part of a Mortgaged Property (**Occupational Lease**);
- (b) agree to any amendment, supplement, extension, waiver, surrender or release in respect of any Occupational Lease;
- (c) exercise any right to break, determine or extend any Occupational Lease;
- (d) commence any forfeiture or irritancy proceedings in respect of any Occupational Lease; or
- (e) grant any licence or right to use or occupy any part of a Mortgaged Property.

8.3 Headleases

- (a) Each Obligor must:
 - (i) exercise its rights and comply with its obligations under any Headlease;
 - (ii) use its reasonable endeavours to ensure that each landlord complies with its obligations under any Headlease; and
 - (iii) if so required by the Security Agent, apply for relief against forfeiture of any Headlease,in a proper and timely manner.
- (b) No Obligor shall:
 - (i) agree to any amendment, supplement, waiver, surrender or release of any Headlease;
 - (ii) exercise any right to break, determine or extend any Headlease;
 - (iii) agree to any rent review in respect of any Headlease; or
 - (iv) do or allow to be done any act as a result of which any Headlease may become liable to forfeiture or otherwise be terminated.

8.4 Maintenance

Each Obligor must ensure that all buildings, plant, machinery, fixtures and fittings on each Mortgaged Property are in, and maintained in:

- (i) good and substantial repair and condition and, as appropriate, in good working order; and
- (ii) such repair, condition and, as appropriate, good working order as to enable them to be let in accordance with all applicable laws and regulations.

8.5 Development

- (i) No Obligor shall:

- (A) make or allow to be made any application for planning permission in respect of any part of any Mortgaged Property; or
- (B) carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of any Mortgaged Property.
- (ii) Paragraph a) above shall not apply to:
 - (A) the maintenance of the buildings, plant, machinery, fixtures and fittings in accordance with the terms of this Deed; or
 - (B) the carrying out of non-structural improvements or alterations which affect only the interior of any building on any Mortgaged Property.
- (iii) Each Obligor must comply in all respects with all planning laws, permissions, agreements and conditions to which any Mortgaged Property may be subject.

9 When security becomes enforceable

9.1 Enforcement Events

Subject to the terms of the Intercreditor Agreement, the Security created by this Deed will become immediately enforceable if any Event of Default occurs or any of the events and circumstances set out in this Clause 9.1 (each being an **Enforcement Event**) occurs.

(a) Non-payment

Any of the Secured Liabilities are not paid on their due date at the place at, and in the currency in which they are, expressed to be payable.

(b) Other obligations

Any Obligor does not comply with any provision of this Deed or any other agreement between any Obligor and the Security Agent.

(c) Misrepresentation

Any representation or statement made or deemed to be made by any Obligor in this Deed or any other agreement between any Obligor and the Security Agent is or proves to have been incorrect or misleading when made or deemed to be made.

(d) Insolvency

(i) Any Obligor:

- (A) is unable or admits inability to pay its debts as they fall due;
- (B) is deemed to, or is declared to, be unable to pay its debts under applicable law;
- (C) suspends or threatens to suspend making payments on any of its debts or,

(D) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Security Agent in its capacity as such) with a view to rescheduling any of its indebtedness.

(ii) The value of the assets of any Obligor is less than its liabilities (taking into account contingent and prospective liabilities).

(iii) A moratorium is declared in respect of any indebtedness of any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Enforcement Event caused by that moratorium.

(e) **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor;

(ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor;

(iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Obligor or any of its assets; or

(iv) enforcement of any Security over any assets of any Obligor,

or any analogous procedure or step is taken in any jurisdiction.

(f) **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Obligor having an aggregate value of £25,000 and is not discharged within five days.

(g) **Cessation of business**

Any Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business except as a result of any disposal allowed under this Deed.

(h) **Unlawfulness and invalidity**

(i) It is or becomes unlawful for any Obligor to perform any of its obligations under this Deed or any Security created by this Deed ceases to be effective.

(ii) Any obligation or obligations of any Obligor under this Deed are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Security Agent under this Deed.

- (iii) This Deed ceases to be in full force and effect or any Security created by this Deed ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Security Agent) to be ineffective.

(i) **Repudiation and rescission of agreements**

Any Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate this Deed or any Security created by this Deed or evidences an intention to rescind or repudiate this Deed or any Security created by this Deed.

(j) **Compulsory purchase**

- (i) Any part of any Mortgaged Property is compulsorily purchased or the applicable local authority makes an order for the compulsory purchase of all or any part of any Mortgaged Property; and
- (ii) taking into account the amount and timing of any compensation payable, the compulsory purchase has or will have a Material Adverse Effect.

(k) **Major damage**

- (i) Any part of any Mortgaged Property is destroyed or damaged; and
- (ii) taking into account the amount and timing of receipt of the proceeds of insurance effected in accordance with the terms of this Deed, the destruction or damage has or will have a Material Adverse Effect.

(l) **Headlease**

Forfeiture or irritancy proceedings with respect to a Headlease are commenced or a Headlease is forfeited or irritated.

(m) **Material adverse change**

Any event or circumstance occurs which has or is reasonably likely to have a Material Adverse Effect.

9.2 Discretion

After any Security created by this Deed has become enforceable, the Security Agent may enforce all or any part of any Security created by this Deed in any manner it sees fit.

9.3 Statutory powers

The power of sale and other powers conferred by section 101 of the LPA 1925, as amended by this Deed, will be immediately exercisable at any time after any Security created by this Deed has become enforceable.

9.4 Investigations

Following the occurrence of an Enforcement Event, the Security Agent may initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of any Obligor which it considers necessary to ascertain the financial position of any Obligor. All fees and expenses incurred by the Security Agent in connection with such investigations shall be payable by the Obligors and the Obligors consent to the provision by the

Security Agent of all information in relation to the Obligors which the Security Agent provides to any person in relation to the preparation of any such report.

9.5 Power to remedy

If at any time any Obligor does not comply with any of its obligations under this Deed, the Security Agent may (but shall not be obliged to) rectify such default and the Obligor irrevocably authorises the Security Agent, its employees and agents, at the Obligors' expense, to do all such things as are necessary or desirable to rectify such default.

10 Enforcement of security

10.1 General

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the LPA 1925 (restricting the power of sale) and section 93 of the LPA 1925 (restricting the right of consolidation) do not apply to any Security created by this Deed.
- (c) The statutory powers of leasing conferred on the Security Agent are extended so as to authorise the Security Agent to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent may think fit and without the need to comply with any provision of section 99 or section 100 of the LPA 1925.

10.2 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

10.3 Privileges

The Security Agent and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers duly appointed under the LPA 1925, except that section 103 of the LPA 1925 does not apply.

10.4 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his/her agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due to the Security Agent; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

10.5 Redemption of prior mortgages

- (a) At any time after any Security created by this Deed has become enforceable, the Security Agent may:
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Obligors.
- (b) The Obligors must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

10.6 Contingencies

If any Security created by this Deed is enforced at a time when no amount is due to the Security Agent (or the proceeds of any recoveries exceed the amount then due to the Security Agent) at a time when amounts may or will become due, the Security Agent (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

10.7 Financial collateral

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of the Obligors under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Security Agent will have the right after any Security created by this Deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) Where any financial collateral is appropriated:
 - (i) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
 - (ii) in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it,

and the Security Agent will give credit for the proportion of the value of the financial collateral appropriated to its use.

11 Receiver**11.1 Appointment of Receiver**

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- (i) any Security created by this Deed has become enforceable; or
 - (ii) any Obligor so requests to the Security Agent at any time.
- (b) Any appointment under paragraph 11.1.1 above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA 1925) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.
- (f) The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986, the LPA 1925 or otherwise.

11.2 Removal

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

11.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the LPA 1925 will not apply.

11.4 Agent of the Obligors

- (a) A Receiver will be deemed to be the agent of the Obligors for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA 1925. The Obligors themselves are responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (b) No Secured Party will incur any liability (either to an Obligor or to any other person) by reason of the appointment of a Receiver or for any other reason.

11.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after any Security created by this Deed becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

12 Powers of receiver

12.1 General

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause 12 in addition to those conferred on it by any law. This includes:
 - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
 - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925 and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

12.2 Possession

A Receiver may take immediate possession of, get in and realise any Security Asset.

12.3 Carry on business

A Receiver may carry on any business of any Obligor in any manner he/she thinks fit.

12.4 Employees

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he/she thinks fit.
- (b) A Receiver may discharge any person appointed by any Obligor.

12.5 Borrow money

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to any Security created by this Deed or otherwise and generally on any terms and for whatever purpose which he/she thinks fit.

12.6 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he/she thinks fit.
- (b) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he/she thinks fit.
- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of any Obligor.

12.7 Leases

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he/she thinks fit and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he/she thinks fit (including the payment of money to a lessee or tenant on a surrender).

12.8 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of any Obligor or relating in any way to any Security Asset.

12.9 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he/she thinks fit.

12.10 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

12.11 Subsidiaries

A Receiver may form a Subsidiary of any Obligor and transfer to that Subsidiary any Security Asset.

12.12 Delegation

A Receiver may delegate his/her powers in accordance with this Deed.

12.13 Lending

A Receiver may lend money or advance credit to any person.

12.14 Protection of assets

A Receiver may:

- (a) effect any repair or insurance and do any other act which an Obligor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he/she thinks fit.

12.15 Exercise of rights

A Receiver may exercise all powers, rights and/or obligations under any contract or agreement forming part of the Security Assets, including, without limitation, all voting and other rights attaching to the Investments.

12.16 Other powers

A Receiver may:

- (a) do all other acts and things which he/she may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he/she would be capable of exercising if he/she were the absolute beneficial owner of that Security Asset; and
- (c) use the name of any Obligor for any of the above purposes.

13 Application of proceeds

13.1 Order of application

All monies from time to time received or recovered by the Security Agent or any Receiver under this Deed or in connection with the realisation or enforcement of all or part of this Security will be held by the Security Agent and shall be applied in accordance with the terms of the Intercreditor Agreement.

13.2 Appropriations

Until all amounts which may be or become payable by the Obligors to the Security Agent have been irrevocably paid in full, the Security Agent (or any trustee or agent on its behalf) may without affecting the liability of any Obligor under this Deed:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by the Security Agent (or any trustee or agent on its behalf) in respect of those amounts; or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from any Obligor or on account of any Obligor's liability under or in connection with this Deed.

13.3 Currency

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by it from one currency to another, at a market rate of exchange.
- (b) The obligations of the Obligors to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

14 Interest

- 14.1 If an Obligor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 3 per cent. per annum above the highest

rate of interest payable on any facility secured by this Deed provided that if any such rate is below zero, that rate will be deemed to be zero.

14.2 Any interest accruing under this Clause 14 shall:

- (a) accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days; and
- (b) be immediately payable by the Obligors on demand by the Security Agent.

15 Expenses and indemnities

15.1 Transaction expenses

Each Obligor must promptly on demand pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by any Secured Party in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other documents referred to in this Deed.

15.2 Enforcement and preservation costs

Each Obligor must, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, this Deed or any Security created by this Deed and with any proceedings instituted by or against that Secured Party as a consequence of it entering into this Deed, taking or holding the Security created by this Deed, or enforcing those rights.

15.3 Currency indemnity

If any sum due from any Obligor under this Deed (**Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (**First Currency**) in which that Sum is payable into another currency (**Second Currency**) for the purpose of:

- (a) making or filing a claim or proof against any Obligor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Obligors must as an independent obligation, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

15.4 Stamp taxes indemnity

Each Obligor must pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in connection with this Deed.

15.5 Other costs and expenses

Each Obligor must:

- (a) immediately on demand pay to each Secured Party the amount of all other costs and expenses (including legal fees) incurred by that Secured Party in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation; and
- (b) keep each Secured Party indemnified against any failure or delay in paying those costs or expenses.

16 Delegation

16.1 Power of attorney

The Security Agent or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Deed.

16.2 Terms

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.

16.3 Liability

Neither the Security Agent nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

17 Further assurances

- (a) Each Obligor must promptly, at its own expense, take whatever action the Security Agent or a Receiver may require for:
 - (i) creating, perfecting or protecting any security over any Security Asset; or
 - (ii) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.
- (b) The action that may be required under paragraph 17.1.1 above includes:
 - (i) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset (including without limitation a Supplemental Debenture), whether to the Security Agent or to its nominees; or
 - (ii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may consider necessary or desirable.

18 Power of attorney

Each Obligor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of the Obligor to execute, deliver and perfect all deeds, instruments and

other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of any Obligor under or pursuant to this Deed or generally for enabling the Security Agent or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Obligor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 18.

19 Preservation of security

19.1 Continuing Security

The guarantee and Security created by this Deed are a continuing guarantee and security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

19.2 Tacking

The Security Agent, subject to the terms of the Facility Agreement, must perform its obligations to each Obligor (including any obligation to make available further advances).

19.3 Additional security

- (a) This Deed is in addition to and is not in any way prejudiced by any other Security now or subsequently held by the Security Agent.
- (b) No prior Security held by the Security Agent (in its capacity as such or otherwise) over any Charged Property will merge into the Security created or expressed to be created in favour of the Security Agent pursuant to this Deed.

19.4 Waiver of defences

The obligations of each Obligor under this Deed will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (whether or not known to it or the Security Agent). This includes (without limitation):

- (a) any time or waiver granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or Security over assets of, any Obligor or 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;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any document or Security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or Security;
- (g) any insolvency or similar proceedings;
- (h) any claim or enforcement of payment from the Obligors or any other person;
- (i) any act or omission by the Security Agent or any other person in taking up, perfecting or enforcing any Security, indemnity or guarantee from or against the Obligors or any other person;
- (j) any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities;
- (k) any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities; or
- (l) any grant of time, indulgence, waiver or concession to the Obligors or any other person.

19.5 **Obligor intent**

Without prejudice to the generality of Clause 19.4 (Waiver of defences), each Obligor expressly confirms that it intends that the guarantee and Security created or expressed to be created in favour of the Security Agent pursuant to this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business 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.

19.6 **Immediate recourse**

Each Obligor waives any rights it may have of first requiring the Security Agent (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from that Obligor under this Deed. This waiver applies irrespective of any law or any provision of any document to the contrary.

19.7 **Deferral of Obligors' rights**

Until the Secured Liabilities and all other amounts which may be or become payable by the Obligors under or in connection with this Deed have been irrevocably paid in full and unless the Security Agent otherwise directs, no Obligor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of the Secured Liabilities;

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Agent under this Deed or of any other guarantee or Security taken pursuant to, or in connection with, the Secured Liabilities by the Security Agent;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Obligor has given a guarantee, undertaking or indemnity under this Deed or otherwise in relation to the Secured Liabilities;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with the Security Agent.

If an Obligor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities and all other amounts which may be or become payable to the Security Agent by the Obligors under or in connection with this Deed to be repaid in full on trust for the Security Agent and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with this Deed.

19.8 **New accounts**

- (a) If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with any Obligor.
- (b) If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

20 **Changes to the parties**

20.1 **Assignment and transfers by the Security Agent**

- (a) The Security Agent may assign any of its rights or transfer by novation any of its rights and obligations under this Deed.
- (b) The Security Agent shall be entitled to disclose such information concerning the Obligors and this Deed as the Security Agent considers appropriate to any actual or proposed direct or indirect successor and to any person to whom information may be required to be disclosed by any applicable law or regulation.

20.2 **Assignment and transfers by the Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under this Deed.

20.3 **Additional Guarantors**

The Obligors' Agent may request that any of its Subsidiaries become an Additional Guarantor. That Subsidiary shall become an Additional Guarantor if the Obligors' Agent and the proposed

Additional Guarantor deliver to the Security Agent a duly completed and executed Accession Deed.

21 Miscellaneous

21.1 No deductions and tax gross-up

- (a) All payments to be made by any Obligor under this Deed shall be made in freely available funds and in sterling and shall be calculated and be made without (and free and clear of any deduction for) set-off, counterclaim or deduction on account of Tax.
- (b) If a Tax deduction is required by law to be made by any Obligor, the amount of the payment due from the Obligor shall be increased to an amount which (after making any Tax deduction) leaves an amount equal to the payment which would have been due if no Tax deduction had been required.

21.2 Perpetuity period

The perpetuity period under the rule against perpetuities, if applicable to this Deed, shall be the period of 125 years from the date of this Deed.

21.3 No liability

- (a) None of the Security Agent, its delegate(s) nominee(s) or any Receiver or its delegate(s) shall be liable for any loss by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part.
- (b) The Security Agent will not be required in any manner to perform or fulfil any obligation of any Obligor, make any payment, make any enquiry as to the nature or sufficiency of any payment received by it or present or file any claim or take any action to collect or enforce the payment of any amount.
- (c) The Security Agent shall not be liable either to any Obligor or to any other person by reason of the appointment of a Receiver or delegate or for any other reason.
- (d) Neither the Security Agent nor the Receiver or any of their respective delegates will be in any way liable or responsible to any Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

21.4 Certificates

Any certification or determination by the Security Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

21.5 Time deposits

Without prejudice to any right of set-off any Secured Party may have under any other agreement with any Obligor or otherwise, if any time deposit matures on any account any Obligor has with any Secured Party within the Security Period when:

- (a) any Security created by this Deed has become enforceable; and
- (b) no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which that Secured Party considers appropriate.

22 Release

At the end of the Security Period, the Security Agent must, at the request and cost of the Obligors, take whatever action is necessary to release its Security Assets from any Security created by this Deed.

23 Set-off

The Security Agent may set-off any matured obligation due from any Obligor under this Deed against any matured obligation owed by the Security Agent to any Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

24 Notices

24.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, by letter.

24.2 Addresses

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

(a) in the case of the Obligors:

Address: 1-4 London Road
Spalding
Lincolnshire
England
PE11 2TA

louise@bridgefarmgroup.co.uk

(b) in the case of the Security Agent:

Address: Toscafund GP Limited
Trinity
16 John Dalton St
Manchester,
M2 6HY

mmetcalf@toscadebtcapital.com

or any substitute address, department or officer as one Party may notify to the other Party by not less than five Business Days' notice.

24.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five Business Days after being deposited in the post (postage prepaid) in an envelope addressed to the relevant person at that address, and, if a particular department or officer is specified as part of its address details provided under Clause 24.2 (Addresses), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's details provided under Clause 24.2 (Addresses) (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) Any communication or document which becomes effective in accordance with Clauses 24.3(a) and 24.3(b) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

24.4 English language

Any notice given under or in connection with this Deed must be in English.

25 Partial invalidity

- 25.1 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 such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 25.2 If any part of the Security created or expressed to be created in favour of the Security Agent pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of Security created or expressed to be created in favour of the Security Agent pursuant to this Deed.

26 Amendments

No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each Party (or its authorised representative).

27 Remedies and waivers

No failure to exercise, nor delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise of that right or remedy or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

28 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

29 Governing law

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

30 Jurisdiction

- 30.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) **(Dispute)**.
- 30.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 30.3 Notwithstanding paragraph 30.1 above, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

This Deed has been signed on behalf of the Security Agent and executed as a deed by each of the Original Obligors and is delivered by them on the date specified at the beginning of this Deed.

Schedule 1**The Original Obligors**

Company name	Place of incorporation	Registered number	Registered office address
Project Giant Bidco Limited	England and Wales	12586015	1-4 London Road, Spalding, Lincolnshire, England, PE11 2TA
Project Seed Topco Limited	England and Wales	10802140	1-4 London Road, Spalding, Lincolnshire, England, PE11 2TA
Project Seed Bidco Limited	England and Wales	10752565	1-4 London Road, Spalding, Lincolnshire, England, PE11 2TA
Bridge Farm Nurseries Limited	England and Wales	04184232	1-4 London Road, Spalding, Lincolnshire, PE11 2TA
Neame Lea Marketing Limited	England and Wales	07632692	1 - 4 London Road, Spalding, Lincs, PE11 2TA
Neame Lea Fresh Limited	England and Wales	06653357	1-4 London Road, Spalding, Lincolnshire, PE11 2TA
Neame Lea Nursery Limited	England and Wales	07309198	1 - 4 London Road, Spalding, Lincs, PE11 2TA
Zyon UK Flowers and Plants Limited	England and Wales	05494756	1-4 London Road, Spalding, Lincolnshire, PE11 2TA
Riverside Horticultural Marketing Limited	England and Wales	05773041	Bulley Davey, 1-4 London Road, Spalding, Lincolnshire, PE11 2TA

Schedule 2**Specified Assets****Real Property****Intentionally left blank****INVESTMENTS**

Obligor	Description	Issuer
Project Giant Bidco Limited	213,158 ordinary shares of £0.01 each	Project Seed Topco Limited
Project Seed Topco Limited	2 ordinary shares of £1.00 each	Project Seed Bidco Limited
Project Seed Bidco Limited	100 ordinary shares of £1.00 each	Bridge Farm Nurseries Limited
Bridge Farm Nurseries Limited	100 ordinary shares of £1.00 each	Neame Lea Marketing Limited
Bridge Farm Nurseries Limited	255 A ordinary shares of £1.00 each	Neame Lea Fresh Limited
Bridge Farm Nurseries Limited	490 B ordinary shares of £1.00 each	Neame Lea Fresh Limited
Bridge Farm Nurseries Limited	2 ordinary shares of £1.00 each	Neame Lea Nursery Limited
Bridge Farm Nurseries Limited	20,000 ordinary shares of £1.00 each	Zyon UK Flowers and Plants Limited
Zyon UK Flowers and Plants Limited	2 ordinary shares of £1.00 each	Riverside Horticultural Marketing Limited

CHATELS


Obligor	Description
Bridge Farm Nurseries Limited	The Justsen Biomass Boiler 1 (serial number 18-1787-1) with RHI Number RHI0000025550 located at Phase 1 – north of site at Clay Lake
Bridge Farm Nurseries Limited	The Justsen Biomass Boiler 2 (serial numbers 19-1957-4/5/6 (heat meter serial number 5389331) with RHI Number RHI0000025091 located at Phase 2 – west of site at Clay Lake
Bridge Farm Nurseries Limited	The Justsen Biomass Boiler 3 (serial numbers 19-1957-1/2/3 (heat meter serial number 5389332) with RHI Number RHI0000025091 located at Phase 2 – west of site at Clay Lake
Bridge Farm Nurseries Limited	The Crone Oil Boiler (Serial number 1813.14) located at Phase 1, north of site at Clay Lake
Neame Lea Nursery Ltd	Kalvis Biomass Boiler 1 (950M-1) with boiler serial number 1142 and heat meter serial number 69916138 located in the Main Boiler House at Horseshoe Nursery
Neame Lea Nursery Ltd	Kalvis Biomass Boiler 2 (950M-1) with boiler serial number 1143 and heat meter serial number 69897968 located in the Main Boiler House at Horseshoe Nursery
Neame Lea Nursery Ltd	Kalvis Biomass Boiler 2 (950M-1) with boiler serial number 1144 and heat meter serial number 69897973 located in the Main Boiler House at Horseshoe Nursery
Neame Lea Nursery Ltd	I.V.A.R Oil Boiler (Superac 500 AR) with boiler serial number 150467 and heat meter serial number 69916119 located in the Main Boiler House at Horseshoe Nursery
Neame Lea Nursery Ltd	I.V.A.R Oil Boiler (Superac 500 AR) with boiler serial number 150468 and heat meter serial number 69916121 located in the Main Boiler House at Horseshoe Nursery
Neame Lea Nursery Ltd	I.V.A.R Oil Boiler (Superac 500 AR) with boiler serial number 150469 and heat meter serial number 69916126 located in the Main Boiler House at Horseshoe Nursery

Bridge Farm Nurseries Limited	The Justsen Argus Flex 19 Pure Biomass Boiler with RHI Number RHI0000025528 located in the New Boiler House at Bridge Farm
Neame Lea Fresh Limited	The Herz Biofire Biomass Boiler with RHI Number RHI0000001542 located in the Old Boiler House at Bridge Farm
Neame Lea Fresh Limited	The Hoval Max 3 Oil Boiler (with a capacity of 1.25Mw) located in the Old Boiler House at Bridge Farm
Bridge Farm Nurseries Limited	The Hoval Max 3 Oil Boiler (with a capacity of 2.7Mw) located in the New Boiler House at Bridge Farm

PLANT AND MACHINERY*Intentionally left blank***ACCOUNTS**

Obligor	Account number	Sort code	Bank
Zyon UK Flowers and Plants Limited	8501		The Co-Operative Bank Plc
Bridge Farm Nurseries Limited	9381		The Co-Operative Bank Plc
Neame Lea Nursery Limited	8543		The Co-Operative Bank Plc
Neame Lea Marketing Limited	9556		The Co-Operative Bank Plc
Neame Lea Fresh Limited	8488		The Co-Operative Bank Plc

Intellectual Property Rights

Registered Proprietor	Trade Mark	Number	Classes
Neame Lea Marketing Limited		UK00003540644	1, 6, 8, 18, 19, 20, 21, 22, 25, 31, 35, 44

CONTRACTS

Intentionally left blank

Schedule 3**Forms of letter for account bank****Part 1 - Notice To Account Bank**

To: [Account Bank]

Copy: Toscafund GP Limited (the Security Agent (as defined below))

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 This letter constitutes notice to you that under the Debenture we have charged (by way of a fixed charge) in favour of Toscafund GP Limited (as trustee for the Secured Parties as referred to in the Debenture, the **Security Agent**) all our rights in respect of any account, and any amount standing to the credit of any account, maintained by us with you (**Accounts**).
- 2 We irrevocably instruct and authorise you to:
 - (a) disclose to the Security Agent any information relating to any Account requested from you by the Security Agent;
 - (b) comply with the terms of any written notice or instruction relating to any Account received by you from the Security Agent;
 - (c) hold all sums standing to the credit of any Account to the order of the Security Agent; and
 - (d) in respect of any Account other than our account numbered ♦, sort code ♦) (**Excluded Account**), pay or release any sum standing to the credit of any such Account in accordance with the written instructions of the Security Agent.
- 3 We are not permitted to withdraw any amount from any Account other than the Excluded Account without the prior written consent of the Security Agent.
- 4 In respect of the Excluded Account, we are permitted to withdraw any amount from the Excluded Account for any purpose unless and until you receive a notice from the Security Agent to the contrary stating that we are no longer permitted to withdraw any amount from the Excluded Account without its consent. If and from the date on which you receive any such notice, we will not be permitted to withdraw any amount from the Excluded Account without the prior written consent of the Security Agent.
- 5 We acknowledge that you may comply with the instructions in this letter without any further permission from us.
- 6 The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.

- 7 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 8 Please confirm your agreement to the above by sending the attached acknowledgement to the Security Agent at Toscafund GP Limited, Trinity, 16 John Dalton St, Manchester, M2 6HY with a copy to us.

Yours faithfully,

.....
(Authorised Signatory)

[Obligor]

Part 2 - Acknowledgement Of Account Bank

To: Toscafund GP Limited (as Security Agent)

Copy: [Relevant Obligor]

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 We confirm receipt from [Obligor] (**Obligor**) of a notice dated ♦ (**Notice**) of a charge upon the terms of the Debenture over all the rights of the Obligor to any amount standing to the credit of any of the Obligor's accounts with us (**Accounts**).
- 2 We confirm that we:
 - (a) accept the instructions contained in the Notice and agree to comply with the Notice;
 - (b) have not received notice of any prior security over, or the interest of any third party in, any Account;
 - (c) have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of any Account;
 - (d) will not permit any amount to be withdrawn from any Account [other than the Excluded Account (as defined in the Notice)] without your prior written consent; and
 - (e) will comply with any notice we may receive from the Security Agent in respect of the Excluded Account.
- 3 The Accounts maintained with us are:
- 4 [Specify accounts and account numbers]
- 5 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....
(Authorised signatory)
[Account Bank]

Schedule 4**Forms of letter for insurers****Part 1 - Notice to insurer**

To: [Insurer]

Copy: Toscafund GP Limited (as Security Agent (as defined below))

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 This letter constitutes notice to you that under the Debenture we have assigned absolutely, subject to a proviso for re-assignment on redemption, to Toscafund GP Limited (as trustee for the Secured Parties as referred to in the Debenture, the **Security Agent**) all our rights in respect of *[insert details of contract of insurance including policy number]* (Insurance).
- 2 We confirm that:
 - (a) we will remain liable under the Insurance to perform all the obligations assumed by us under the Insurance; and
 - (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Insurance (unless, and to the extent, otherwise expressly provided for in the Insurance).
- 3 We will also remain entitled to exercise all our rights, powers and discretions under the Insurance, and you should continue to give notices and make payments under the Insurance to us (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Security Agent in respect of the Insurance), unless and until you receive notice from the Security Agent to the contrary stating that the security under the Debenture has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Security Agent or as it directs (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Security Agent in respect of the Insurance).
- 4 We irrevocably instruct and authorise you to disclose to the Security Agent any information relating to the Insurance requested from you by the Security Agent.
- 5 The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.
- 6 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

- 7 Please acknowledge receipt of this letter by sending the attached acknowledgement to the Security Agent at Toscafund GP Limited, Trinity, 16 John Dalton St, Manchester, M2 6HY with a copy to us.

Yours faithfully,

.....

(Authorised signatory)

[Obligor]

Part 2 - acknowledgement of insurer

To: Toscafund GP Limited (as Security Agent)

Copy: *[Relevant Obligor]*

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 We confirm receipt from *[Obligor]* (**Obligor**) of a notice dated ♦ (**Notice**) of an assignment on the terms of the Debenture of all the Obligor's rights in respect of *[insert details of the contract of insurance]* (**Insurance**).
- 2 We confirm that we:
 - (a) accept the instructions contained in the Notice and agree to comply with the Notice; and
 - (b) will give notices and make payments under the Insurance as directed in the Notice.
- 3 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....
(Authorised signatory)
[Insurer]

Schedule 5**Forms of letter for other contracts****Part 1 - Notice to counterparty**

To: [Contract Counterparty]

Copy: Toscafund GP Limited (as Security Agent (as defined below))

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (**Debenture**)

- 1 This letter constitutes notice to you that under the Debenture we have [assigned absolutely, subject to a proviso for re-assignment on redemption,]/[charged by way of a fixed charge] to Toscafund GP Limited (as trustee for the Secured Parties as referred to in the Debenture, the **Security Agent**) all our rights in respect of [insert details of contract] (**Contract**).
- 2 We confirm that:
 - (a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
 - (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.
- 3 We will also remain entitled to exercise all our rights, powers and discretions under the Contract, and you should continue to give notices and make payments under the Contract to us, unless and until you receive notice from the Security Agent to the contrary stating that the security under the Composite Guarantee and Debenture has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Security Agent or as it directs.
- 4 We irrevocably instruct and authorise you to disclose to the Security Agent any information relating to the Contract requested from you by the Security Agent.
- 5 The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.
- 6 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

- 7 Please acknowledge receipt of this letter by sending the attached acknowledgement to the Security Agent at Toscafund GP Limited, Trinity, 16 John Dalton St, Manchester, M2 6HY with a copy to us.

Yours faithfully,

.....
(Authorised signatory)
[Obligor]

Part 2 - Acknowledgement of counterparty

To: Toscafund GP Limited (as Security Agent)

Copy: *[Relevant Obligor]*

[Date]

Dear Sirs,

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 We confirm receipt from *[Obligor]* (**Obligor**) of a notice dated ♦ (**Notice**) of [an assignment]/[fixed charge]¹ on the terms of the Debenture of all the Obligor's rights in respect of *[insert details of the contract]* (**Contract**).
- 2 We confirm that we:
 - (a) accept the instructions contained in the Notice and agree to comply with the Notice; and
 - (b) will give notices and make payments under the Contract as directed in the Notice.
- 3 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....
(Authorised signatory)
[Contract counterparty]

¹ Delete as applicable.

Schedule 6**Form of supplemental debenture**

This Supplemental Debenture is made on the day of 20♦

Between:

- (1) ♦ a company incorporated in England and Wales (No. ♦) whose registered office is at ♦
(**Chargor**);
- (2) ♦ a company incorporated in England and Wales (No. ♦) whose registered office is at ♦
(**Security Agent**); and
- (3) ♦ a company incorporated in England and Wales (company number [?]) whose registered office
is at ♦ (**Obligors' Agent**) for itself and on behalf of each Obligor.

Whereas

This Supplemental Debenture is supplemental to a guarantee and debenture dated ♦ between, amongst others, the Chargor and the Security Agent (as supplemented and amended from time to time, the **Debenture**) and shall take effect as a Supplemental Debenture for the purposes of the Debenture.

It is agreed**1 Definitions and interpretation**

- 1.1 Terms defined in the Debenture have the same meaning when used in this Supplemental Debenture unless given a different meaning in this Supplemental Debenture.
- 1.2 The provisions of clauses 1.2 (*Construction*) to 1.13 (*Third party rights*) of the Debenture apply to this Supplemental Debenture as though they were set out in full in this Supplemental Debenture except that references to the Debenture will be construed as references to this Supplemental Debenture.
- 1.3 In this Supplemental Debenture, **Additional Security Assets** means any asset of the Chargor which is, or is expressed to be, subject to any Security created by this Supplemental Debenture.
- 1.4 From the date of this Supplemental Debenture, references within the Debenture to "Security Assets" shall be construed so as to extend to and include the Additional Security Assets.
- 1.5 The Debenture continues and remains in full force and effect and this Supplemental Debenture shall be read and construed as one with the Debenture so that all references to "this Deed" in the Debenture shall include reference to this Supplemental Debenture.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

2 Creation of security

- 2.1 The Chargor must pay or discharge the Secured Liabilities as and when the same are due.
- 2.2 All the security created under this Supplemental Debenture:
 - (a) is created in favour of the Security Agent;

- (b) is created over present and future assets of the Chargor;
- (c) is security for the payment of all the Secured Liabilities; and
- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3 Real property

The Chargor charges by way of a legal mortgage all estates or interests in the real property (if any) specified in the Schedule to this Supplemental Debenture including:

- 3.1 all buildings, fixtures, fittings and fixed plant and machinery on that property; and
- 3.2 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

4 Chattels

Each Obligor charges by way of a legal mortgage, the Chattels (if any) specified in the Schedule to this Supplemental Debenture including the benefit of all other contracts, guarantees, appointments and warranties relating to the Chattels.

5 Investments

The Chargor charges by way of a fixed charge its interest in the investments (if any) specified in the Schedule to this Supplemental Debenture.

6 Plant and machinery

To the extent that they are not the subject of a mortgage or a fixed charge under Clause 2.2 (*Real property*) of the Debenture, the Chargor charges by way of a fixed charge the plant and machinery (if any) specified in the Schedule to this Supplemental Debenture.

7 Credit balances

The Chargor charges by way of a fixed charge all of its rights in respect of the accounts (if any) specified in the Schedule to this Supplemental Debenture, any amount standing to the credit of those accounts and the debt represented by them.

8 Intellectual property rights

The Chargor charges by way of a fixed charge all of its rights (if any) specified in the Schedule to this Supplemental Debenture.

9 Other contracts

- 9.1 The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under the contracts (if any) specified in the Schedule to this Supplemental Debenture.
- 9.2 To the extent that they have not been effectively assigned under paragraph 9.1 above, the Chargor charges by way of a fixed charge all of its rights listed under paragraph 9.1 above.

10 Perfection of Security

The Chargor must take such action in accordance with Clause 5 (*Perfection of Security*) of the Debenture in respect of the Additional Security Assets as if the Additional Security Assets had been Security Assets on the date of the Debenture.

11 Representations

11.1 The Chargor makes the representations and warranties set out in Clause 6 (*Representations*) of the Debenture to the Security Agent on the date of this Supplemental Debenture as if references in that Clause to "this Deed" were to this Supplemental Debenture.

11.2 The Chargor further represents and warrants to the Security Agent on the date of this Supplemental Debenture that:

- (a) Subject to the Legal Reservations:
 - (i) the obligations expressed to be assumed by it in this Supplemental Debenture are legal, valid, binding and enforceable obligations; and
 - (ii) this Supplemental Debenture creates the Security which it purports to create and that Security is valid and effective;
- (b) the entry into and performance by it of the transactions contemplated by, this Supplemental Debenture, and the granting of the Security created by this Supplemental Debenture, do not and will not conflict with:
 - (i) any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument; and
- (c) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of this Supplemental Debenture and the transactions contemplated by this Supplemental Debenture.

12 Tacking

The Security Agent must perform its obligations to any Obligor (including any obligation to make available further advances).

13 Miscellaneous

13.1 The Obligors agree to the terms of this Supplemental Debenture and agree that its execution will in no way prejudice or affect any guarantee or Security given by any of them under the Debenture.

13.2 The provisions of clauses 25 (Partial invalidity), 28 (Counterparts) and 30 (Jurisdiction) of the Debenture apply to this Supplemental Debenture as if set out in full in this Supplemental Debenture but as though references to the Debenture were references to this Supplemental Debenture.

13.3 This Supplemental Debenture and any non-contractual obligations arising out of or in connection with it shall be governed by English law

This Supplemental Debenture has been signed on behalf of the Security Agent and **executed as a deed** by the Chargor and the Obligors' Agent and is delivered by them on the date specified at the beginning of this Supplemental Debenture

SCHEDULE TO SUPPLEMENTAL DEBENTURE

REAL PROPERTY

[Intentionally left blank/]

Tenure	Description (address)	Title number
[Freehold/Leasehold]	◆	◆

CHATTELS

[Intentionally left blank/]

Description

INVESTMENTS

[Intentionally left blank/]

Description	Issuer
[[●] [ordinary] shares of [£1] each	◆

PLANT AND MACHINERY

[Intentionally left blank/◆]

ACCOUNTS

[Intentionally left blank/]

Account number	Sort code	Account name	Bank
◆	◆	◆	◆

INTELLECTUAL PROPERTY RIGHTS

[Intentionally left blank/[●]]

CONTRACTS

[Intentionally left blank/[●]]

Description
<i>[Contracts relating to Chattels to be included]</i>

[Signatories to Supplemental Debenture – to be executed as a Deed by The Chargor and The Obligors' Agent]

Schedule 7**Additional Guarantors****Part 1 - Form of accession deed**

This Accession Deed is made on the day of 20♦

Between:

- (1) ♦, a company incorporated in England and Wales (No. ♦) whose registered office is at ♦
(Acceding Obligor);
- (2) ♦, a company incorporated in England and Wales (No. ♦) whose registered office is at ♦
(Security Agent); and
- (3) ♦, a company incorporated in England and Wales (No. ♦) whose registered office is at ♦
(Obligors' Agent) for itself and on behalf of each of the existing Obligors.

Whereas

This Accession Deed is supplemental to a guarantee and debenture dated ♦ between, amongst others, the Obligors' Agent and the Security Agent (as supplemented and amended from time to time, the **Debenture**) and shall take effect as an Accession Deed for the purposes of the Debenture.

It is agreed**1 Definitions and interpretation**

- 1.1 Terms defined in the Debenture have the same meaning when used in this Accession Deed unless given a different meaning in this Accession Deed.
- 1.2 The provisions of clauses 1.2 (*Construction*) to 1.13 (*Third party rights*) of the Debenture apply to this Accession Deed as though they were set out in full in this Accession Deed except that references to the Debenture will be construed as references to this Accession Deed.
- 1.3 In this Accession Deed, **Additional Security Assets** means any asset of the Acceding Obligor which is, or is expressed to be, subject to any Security created by this Accession Deed.
- 1.4 From the date of this Accession Deed, references within the Debenture to "Security Assets" shall be construed so as to extend to and include the Additional Security Assets.
- 1.5 The Debenture continues and remains in full force and effect and this Accession Deed shall be read and construed as one with the Debenture so that all references to "this Deed" in the Debenture shall include reference to this Accession Deed.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

2 Accession of the Acceding Obligor

The Acceding Obligor agrees to be an Additional Guarantor and agrees to be bound by the terms of the Debenture as an Additional Guarantor pursuant to Clause 20.3 (Additional Guarantor) of the Debenture.

3 Creation of security

Without prejudice to the generality of clause 1.6(d) of this Accession Deed:

3.1 Real property

- (a) The Acceding Obligor charges:
 - (i) by way of a legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes its real property (if any) specified in the Schedule to this Accession Deed or the schedule to any Supplemental Debenture; and
 - (ii) (to the extent that they are not the subject of a mortgage under paragraph a) above) by way of a fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it.
- (b) A reference in this Clause 3 to a mortgage or charge of any freehold or leasehold property includes:
 - (i) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
 - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Acceding Obligor in respect of that property or any moneys paid or payable in respect of those covenants.

3.2 Chattels

- (a) Each Obligor charges:
 - (i) by way of legal mortgage, the Chattels now owned by it; this includes its Chattels specified in the Schedule to this Accession Deed or in the schedule to any Supplemental Debenture; and
 - (ii) (to the extent that they are not the subject of a mortgage under paragraph 2.3.1a) above, by way of a fixed charge all Chattels now or subsequently owned by it.
- (b) A reference in this Clause 3.2 to a Chattel includes the benefit of all other contracts, guarantees, appointments and warranties relating to the Chattels.

3.3 Investments

The Acceding Obligor charges by way of a fixed charge its interest in all its Investments.

3.4 Plant and machinery

To the extent that they are not the subject of a mortgage or a fixed charge under Clause 3.1 (Real property), the Acceding Obligor charges by way of a fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession; this includes its plant and machinery (if any) specified in the Schedule to this Accession Deed or the schedule to any Supplemental Debenture.

3.5 **Credit balances**

- (a) The Acceding Obligor charges by way of a fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.
- (b) The Acceding Obligor charges by way of a fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in Clause 3.5(a) above, any amount standing to the credit of any such account and the debt represented by it.

3.6 **Intellectual Property Rights**

The Acceding Obligor charges by way of a fixed charge all of its Intellectual Property Rights; this includes its rights (if any) specified in the Schedule to this Accession Deed or the schedule to any Supplemental Debenture.

3.7 **Book debts etc.**

The Acceding Obligor charges by way of a fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights in relation to any item under Clauses 3.7(a) to 3.7(b) above.

3.8 **Insurances**

- (a) The Acceding Obligor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under any contract or policy of insurance taken out by it or on its behalf or in which it has an interest (together, the **Insurance Rights**).
- (b) To the extent that they have not been effectively assigned under Clause 3.8(a) above, the Acceding Obligor charges by way of a fixed charge all of its Insurance Rights.

3.9 **Other contracts**

- (a) The Acceding Obligor:
 - (i) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
 - (A) under each Designated Contract; and
 - (B) under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and
 - (ii) charges by way of a fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this Clause 3.
- (b) To the extent that they have not been effectively assigned under Clause 3.9(a)(i) above, the Acceding Obligor charges by way of a fixed charge all of its rights listed under Clause 3.9(a)(ii) above.

3.10 Other assets

The Acceding Obligor charges by way of fixed charge:

- (a) its goodwill;
- (b) the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- (c) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in Clause 3.10(b) above;
- (d) its uncalled capital; and
- (e) the benefit of all rights in relation to any item under paragraphs 3.10(a) to 3.10(d) above.

3.11 Floating charge

- (a) The Acceding Obligor charges by way of a floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this Clause 3.
- (b) The floating charge created by this Clause 3.11 (Floating charge) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

4 General

- 4.1 The Acceding Obligor must pay or discharge the Secured Liabilities as and when the same are due.
- 4.2 All the security created under this Deed:
 - (a) is created in favour of the Security Agent;
 - (b) is created over present and future assets of the Acceding Obligor;
 - (c) is security for the payment of all the Secured Liabilities; and
 - (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

5 Perfection of Security

The Acceding Obligor must take such action in accordance with Clause 5 (Perfection of Security) of the Debenture in respect of the Additional Security Assets as if the Additional Security Assets had been Security Assets on the date of the Debenture.

6 Representations

- 6.1 The Acceding Obligor makes the representations and warranties set out in Clause 6 (Representations) of the Debenture to the Security Agent on the date of this Accession Deed as if references in that Clause to "this Deed" were to this Accession Deed.
- 6.2 The Acceding Obligor further represents and warrants to the Security Agent on the date of this Accession Deed that:

- (a) Subject to the Legal Reservations:
 - (i) the obligations expressed to be assumed by it in this Accession Deed are legal, valid, binding and enforceable obligations; and
 - (ii) this Accession Deed creates the Security which it purports to create and that Security is valid and effective;
- (b) the entry into and performance by it of the transactions contemplated by, this Accession Deed, and the granting of the Security created by this Accession Deed, do not and will not conflict with:
 - (i) any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument; and
- (c) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of this Accession Deed and the transactions contemplated by this Accession Deed.

7 Tacking

The Security Agent must perform its obligations to any Obligor (including any obligation to make available further advances).

8 Miscellaneous

- 8.1 The existing Obligors agree to the terms of this Accession Deed and agree that its execution will in no way prejudice or affect any guarantee or Security given by any of them under the Debenture.
- 8.2 The provisions of clauses 25 (Partial invalidity), 28 (*Counterparts*) and 30 (*Jurisdiction*) of the Debenture apply to this Accession Deed as if set out in full in this Accession Deed but as though references to the Debenture were references to this Accession Deed.
- 8.3 This Accession Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law

This Accession Deed has been signed on behalf of the Security Agent and **executed as a deed** by the Acceding Obligor and the Obligors' Agent and is delivered by them on the date specified at the beginning of this Accession Deed

SCHEDULE TO ACCESSION DEED

REAL PROPERTY

[Intentionally left blank/]

Tenure	Description (address)	Title number
[Freehold/Leasehold]	◆	◆

CHATTELS

[Intentionally left blank/]

Description

INVESTMENTS

[Intentionally left blank/]

Description	Issuer
[◆ [ordinary] shares of [£1] each	◆

PLANT AND MACHINERY

[Intentionally left blank/◆]

ACCOUNTS

[Intentionally left blank/]

Account number	Sort code	Account name	Bank
◆	◆	◆	◆

INTELLECTUAL PROPERTY RIGHTS

[Intentionally left blank/[●]]

CONTRACTS

[Intentionally left blank/[●]]

Description
<i>[Contracts relating to Chattels to be included]</i>

[Signatories to Accession – to be executed as a Deed by The Acceding Obligor and The Obligors' Agent]

Part 2 – Conditions Precedent Required To Be**Delivered by an additional obligor**

- 1 An Accession Deed executed by the Additional Guarantor and the Obligors' Agent.
- 2 A copy of the constitutional documents of the Additional Obligor.
- 3 A copy of a resolution of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and resolving that it execute, deliver and perform the Accession Deed;
 - (b) authorising a specified person or persons to execute the Accession Deed on its behalf; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Accession Deed.
- 4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
- 5 If required by the Security Agent, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Accession Deed.
- 6 If required by the Security Agent, a copy of the resolution of the board of directors of each corporate shareholder of the Additional Guarantor approving the terms of the resolution referred to at paragraph 5 above.
- 7 A certificate of the Additional Guarantor (signed by a director) confirming that guaranteeing and securing the Secured Liabilities would not cause any guarantee, security or similar limit binding on it to be exceeded.
- 8 A certificate of an authorised signatory of the Additional Guarantor certifying that each copy document listed in this Part 2 of Schedule 7 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
- 9 A copy of any other authorisation or other document, opinion or assurance which the Security Agent considers to be necessary or desirable in connection with the entry into and performance of a the transactions contemplated by the Accession Deed or for the validity and enforceability of the Accession Deed.
- 10 If available, the latest audited financial statements of the Additional Obligor.
- 11 Each notice required to be given under the terms of the Accession Deed, signed by the Additional Obligor.
- 12 If required by the Security Agent, a legal opinion addressed to the Security Agent by its legal advisers as to English law.

Schedule 8**Form of resignation letter**

To: Toscafund GP Limited as Security Agent

From: [*resigning Obligor*] and [*Obligors' Agent*]

Dated: ♦

Dear Sirs

Composite Guarantee and Debenture dated ♦ between Project Giant Bidco Limited and others and the Security Agent (Debenture)

- 1 We refer to the Debenture. This is a Resignation Letter. Terms defined in the Debenture have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
- 2 Pursuant to Clause 20.4 (Resignation of an Obligor) of the Debenture, we request that [*resigning Obligor*] be released its obligations as an Obligor under the Debenture.
- 3 We confirm that:
 - 3.1 no Enforcement Event is continuing or would result from the acceptance of this request[; and
 - 3.2 ♦]*.
- 4 This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[*resigning Obligor*]

[*resigning Obligor*]

By:

By:

Print name:

Print name:

NOTES:

- * Insert any other conditions required by the Debenture.

SIGNATORIES

Original Obligors

Executed as a deed by

PROJECT GIANT BIDCO LIMITED acting by two directors

... 
Directors' Signature

... 
Director's Signature

Executed as a deed by

PROJECT SEED TOPCO LIMITED acting by two directors

... 
Directors' Signature

... 
Director's Signature

Executed as a deed by

PROJECT SEED BIDCO LIMITED acting by two directors

... 
Directors' Signature

... 
Director's Signature

EXECUTION VERSION

Executed as a deed by

BRIDGE FARM NURSERIES LIMITED acting by two directors


Directors' Signature


Director's Signature

Executed as a deed by

NEAME LEA MARKETING LIMITED acting by two directors


Directors' Signature


Director's Signature

Executed as a deed by

NEAME LEA FRESH LIMITED acting by two directors


Directors' Signature


Director's Signature

EXECUTION VERSION

Executed as a deed by

NEAME LEA NURSERY LIMITED acting by two directors

... 
Directors' Signature

.. 
Director's Signature

Executed as a deed by

ZYON UK FLOWERS AND PLANTS LIMITED acting by two directors


Directors' Signature

. 
Director's Signature

Executed as a deed by

RIVERSIDE HORTICULTURAL MARKETING LIMITED acting by two directors

.. 
Directors' Signature

. 
Director's Signature

Security Agent

Signed by
for and on behalf of
TOSCAFUND GP LIMITED

) 
)
) Authorised signatory
) Print name: Damon Barber