



Registration of a Charge

Company Name: **PORTGLENONE REFRIGERATION SERVICES LTD**

Company Number: **NI040931**



Received for filing in Electronic Format on the: **27/08/2021**

XABQVBOO

Details of Charge

Date of creation: **24/08/2021**

Charge code: **NI04 0931 0002**

Persons entitled: **ALLIED IRISH BANKS, P.L.C.**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **CARSON MCDOWELL LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI40931

Charge code: NI04 0931 0002

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 24th August 2021 and created by PORTGLENONE REFRIGERATION SERVICES LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th August 2021 .

Given at Companies House, Belfast on 31st August 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 24 August 2021

PORTGLENONE REFRIGERATION SERVICES LIMITED

Chargor

and

ALLIED IRISH BANKS, P.L.C.

Chargee

DEBENTURE

Fixed and Floating Charge

WE CERTIFY THAT THE WITHIN COPY DOCUMENT
IS A TRUE COPY OF THE ORIGINAL WITH WHICH
IT HAS BEEN COMPARED
DATED THE 27 DAY OF August 2021
SIGNED O'Flynn Exhams
O'FLYNN EXHAMS LLP SOLICITORS
58 SOUTH MALL, CORK

O'Flynn Exhams
Solicitors
58 South Mall
Cork

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LAND REGISTRY OF NORTHERN IRELAND

FOLIO(S):

COUNTY:

REGISTERED OWNER:

THIS DEBENTURE is dated 24 August 2021

BETWEEN:

1. PORTGLENONE REFRIGERATION SERVICES LIMITED a company incorporated in Northern Ireland with registered number NI040931 and having its registered office at 53 Main Street, Portglenone, Co. Antrim (the "Chargor"); and
2. ALLIED IRISH BANKS, p.l.c. having its registered office at 10 Molesworth Street, Dublin 2 (the "Chargee").

WHEREAS

- A. The Chargor is now or may become from time to time indebted to the Chargee as principal, surety or otherwise.
- B. It has been agreed between the Chargor and the Chargee that all monies now owing or which shall at any time in the future become owing on a general balance of account or otherwise from the Chargor to the Chargee with interest, costs and charges shall be secured by this Debenture.

IT IS AGREED BY THIS DEBENTURE as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Debenture (including the recitals), unless the context otherwise requires:

"1881 Act" means the Conveyancing and Law of Property Act 1881;

"1911 Act" means the Conveyancing Act 1911;

"Acts" means the Land and Conveyancing Law Reform Act 2009;

"Account" means and without prejudice to the generality of the foregoing any account(s) (bank or otherwise) in the name of the Chargor as more particularly listed in Part 4 of the Second Schedule hereto (Accounts) with the Chargee, or, any substitute, replacement or reinstatement of any such account or any account of the Chargor designated as an Account by the Chargee from time to time;

"Administrator" means an administrator appointed to manage the

	affairs, business and property of the Chargor pursuant to clause 11;
"Agreements"	the agreements and contracts more particularly detailed in Part 2 of the Second Schedule hereto (<i>Agreements</i>);
"Business Day"	means a day (other than a Saturday or Sunday) on which banks are open for the conduct of their normal business in Dublin and Belfast;
"Counterparty"	means any party to an Agreement other than the Chargor and if more than one such party shall, where the context so requires, mean any one of them;
"Criminal Damage Claim"	means a claim made by or on behalf of the Chargor under the Criminal Damage Order in relation to damage caused to the Mortgaged Property after the date hereof;
"Criminal Damage Order"	means the Criminal Damage (Compensation) (Northern Ireland) Order 1977 (or any statutory successor scheme for the compensation of criminal damage to property for the time being in force);
"Debts"	means all the book debts and other debts, revenues, claims and benefits referred to in clause 3.4 (a) – (c);
"Enforcement Event"	means any of the following events: <ul style="list-style-type: none"> (a) a failure by the Chargor to pay or discharge any of the Secured Obligations when the same ought to be paid or discharged; or (b) any event (whether described as an event of default or otherwise) by virtue of which any of the Secured Obligations becomes due to be paid or discharged before the date on which it would otherwise be due to be paid or discharged;
"Environmental Laws"	means all laws and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency (whether in Ireland or elsewhere and whether or not having the force of law) concerning the protection of the environment (or human health), including but not limited to, the conservation of natural resources,

	the control of noise, the safety of the workplace, the undertaking of any manufacturing or process, the use of packaging, the labelling or advertisement of any goods in relation to the effect on the environment of their production or use, the production, storage, transportation, treatment, recycling or disposal of any waste or Hazardous Substance, the preparation of audits or assessments in relation to any such matters, or the liability of any person whether civil or criminal for any harm to human health, damage to or pollution of the environment or the rectification of it;
"Environmental Licence"	means any permit, licence, authorisation, consent or other approval required by any Environmental Law;
"Financial Collateral"	has the meaning given to that expression in the Financial Collateral Regulations;
"Financial Collateral Regulations"	means the Financial Collateral Arrangements (No 2) Regulations 2003 (<i>SI 2003/3226</i>).
"Fixed Charge Assets"	means the property and assets referred to in clauses 3.1 to 3.3;
"Floating Charge Assets"	means the property and assets referred to in clause 3.4;
"Hazardous Substance"	means all poisonous, noxious, hazardous, infectious, radioactive or polluting substances whether natural or artificial and whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any substance which may either alone or in combination be harmful to man, to the life or health of any living organism, to property or deleterious to the environment;
"Intellectual Property Rights"	means all present and future know-how, patents, trade marks, service marks, designs, business names, topographical or similar rights, trade names, copyrights and other intellectual property rights and confidential information and any interests (including by way of licence) in any of the above (in each case whether registered (in Ireland or elsewhere) or unregistered and including all applications of any such registration);

"Mortgaged Property"

means:

- (a) all freehold, leasehold and other immovable property in which the Chargor holds or acquires a legal or beneficial interest, both now and in the future, including but not limited to any freehold land and/or leasehold land, whether registered or unregistered, specified in the First Schedule hereto; and
- (b) all rights, liberties, powers, easements, quasi easements and appurtenances (in each case of whatever nature) attached or appurtenant thereto and all buildings, structures, erections, fixtures (including trade fixtures) and fixed plant and machinery from time to time therein and thereon;

"Planning Acts"

means all legislation from time to time regulating the development, use, safety and control of property including (without limitation) the Planning (Northern Ireland) Order 1972, Planning (Northern Ireland) Order 1978, Planning (Northern Ireland) Order 1982 and Planning (Northern Ireland) Order 1991, the Planning (Amendment) (Northern Ireland) Order 2003, the Planning Reform (Northern Ireland) Order 2006, the Planning Act (Northern Ireland) 2011, the Building Regulations (Northern Ireland) Order 1979 (as amended) and the Building Regulations (Northern Ireland) 2000 (as amended) and any act or orders for the time being in force amending, replacing or modifying such orders and any other instrument, plan, regulation, permission and direction made or issued thereunder or deriving validity therefrom;

"Proceedings"

has the meaning ascribed to it in clause 15.11.2;

"Receiver"

has the meaning ascribed to it in clause 10.1;

"Secured Assets"

means the assets the subject of any Security Interest created by this Debenture;

"Secured Obligations"

means all monies and liabilities that are now or shall from time to time hereafter be due, owing or incurred by the Chargor to the Chargee;

- (a) in any manner whatever or howsoever,

- (b) whether actually or contingently, and
- (c) whether solely or jointly with any other person(s), and
- (d) whether as principal or surety or otherwise; and
- (e) whether originally due, owing or incurred to the Chargee or purchased or otherwise acquired by it; and
- (f) whether in respect of principal, interest, discount, commission, fees or expenses or otherwise;

"Securities"	has the meaning ascribed to it in clause 3.1.6;
"Security Financial Collateral Arrangement"	has the meaning given to that expression in the Financial Collateral Regulations; and
"Security Interest"	means any assignment by way of security, mortgage, charge, pledge, lien or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect.

1.2 In this Debenture (except where the context otherwise requires):

- 1.2.1 words and phrases the definition of which is contained in or referred to in the Companies Act 2006 are to be construed as having the meaning attributed to them there;
- 1.2.2 words importing the singular include the plural and vice versa;
- 1.2.3 words importing persons include natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case whether or not having a separate legal personality);
- 1.2.4 use of any gender includes the other genders;
- 1.2.5 any reference to a statute, statutory provision or subordinate legislation ("**Legislation**") is (unless the contrary is clearly stated) to be construed as a reference to Legislation operative in Northern Ireland and is (except where the context otherwise requires) to be construed as referring to such Legislation as amended and in force from time to time and to any Legislation which re-enacts or consolidates (with or without modification) any such Legislation;
- 1.2.6 save as otherwise provided in this Debenture, any reference to a section, clause, paragraph, sub-clause, sub-paragraph or schedule is a reference to a section, clause, paragraph, sub-clause, sub-paragraph or schedule (as the case may be) of this Debenture;

- 1.2.7 the index and headings are inserted for convenience only and are not to affect the construction of this Debenture;
 - 1.2.8 a reference to any document includes that document as it has or may be amended, varied, assigned, novated, replaced, restated or supplemented from time to time;
 - 1.2.9 any reference to a legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing is, in respect of any jurisdiction other than Northern Ireland, to be deemed to include a reference to what most nearly approximates in that jurisdiction to the Northern Irish legal term;
 - 1.2.10 any phrase introduced by the terms "including", "include", "in particular" or any similar expression is to be construed as illustrative and shall not limit the sense of the words preceding those terms;
 - 1.2.11 a reference to the "Chargor" or the "Chargee" shall be construed so as to include its successors in title, permitted assigns and permitted transferees.
- 1.3 The schedule(s) forms part of this Debenture and is/are to have effect as if set out in full in the body of this Debenture and any reference to this Debenture includes the schedule(s).

2 OBLIGATION TO PAY AND DISCHARGE

The Chargor shall pay and discharge to the Chargee on demand the Secured Obligations.

3 CHARGING PROVISIONS

- 3.1 The Chargor as beneficial owner to the intent that the charges contained in this Debenture will be a continuing security for the payment, discharge and performance of the Secured Obligations hereby:
- 3.1.1 by way of first legal mortgage **GRANTS AND DEMISES** to the Chargee all the Mortgaged Property, title to which is not registered at the Land Registry of Northern Ireland **TO HOLD** so much of the same as is of freehold tenure to the Chargee for a term of 10,000 years from the date of this Debenture and **TO HOLD** so much of the same as is of leasehold tenure to the Chargee for the residue of the respective term or terms of years for which the Chargor now holds the same less the last ten days of each of such term or terms;
 - 3.1.2 **CHARGES** in favour of the Chargee as a first fixed charge all the Mortgaged Property, title to which is registered or registerable in the Land Registry of Northern Ireland with the payment, performance and discharge of the Secured Obligations and hereby **ASSENTS** to the registration of this charge as a burden against the Mortgaged Property;
 - 3.1.3 **CHARGES** in favour of the Chargee as a first fixed charge all other (if any) freehold and leasehold property of the Chargor now vested in it (whether or not registered), together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon;

- 3.1.4 **CHARGES** in favour of the Chargee as a first fixed charge all future freehold and leasehold property of the Chargor, together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon, other than leasehold property in respect of which the consent of the lessor is required for such charge;
- 3.1.5 **CHARGES** in favour of the Chargee as a first fixed charge all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to all property of the Chargor;
- 3.1.6 **CHARGES** in favour of the Chargee as a first fixed charge all present and future interests of the Chargor not effectively charged or mortgaged under the preceding provisions of this clause in or over freehold or leasehold property;
- 3.1.7 **CHARGES** in favour of the Chargee by way of first fixed charge any present or future stocks, shares, debentures, bonds, warrants, coupons or other securities and investments owned by the Chargor including, without limitation, those stocks, shares, debentures, bonds, warrants, coupons or other securities specified in Part 1 of the Second Schedule hereto (*Shares*) (together the "**Securities**") and any rights attaching and any dividend or interest paid or payable in relation to them and any rights, monies or property accruing or offered at any time in relation to them by way of redemption, substitution, exchange or bonus under option rights or otherwise;
- 3.1.8 **CHARGES** in favour of the Chargee as a first fixed charge all other plant, machinery, vehicles, computers and office and other equipment of the Chargor both present and future (including stock in trade of the Chargor);
- 3.1.9 **CHARGES** in favour of the Chargee as a first fixed charge all the Chargor's uncalled capital for the time being and the Chargor's present and future goodwill; and
- 3.1.10 **CHARGES** in favour of the Chargee as a first fixed charge all of the Chargor's rights, title, interest and benefit in all Intellectual Property Rights including, without limitation, all Intellectual Property Rights specified in Part 3 of the Second Schedule hereto (*Intellectual Property Rights*) and all computer software and licences and ancillary and connected rights relating to the intangible property both present and future of the Chargor.
- 3.2 Subject to the proviso for reassignment on redemption hereinafter contained and the provisions of clause 3.3 below, the Chargor, as beneficial owner as continuing security for the payment, discharge and performance of the Secured Obligations hereby **ASSIGNS** absolutely by way of security to the Chargee all of its present and future rights, title, benefit and interest (but not its obligations) in respect of:
- (a) the Agreements; and
 - (b) each Criminal Damage Claim and all related rights.
- 3.3 To the extent that they are not effectively assigned pursuant to clause 3.2 or are not capable of assignment the Chargor as beneficial owner as continuing security for the payment, discharge and performance of the Secured Obligations hereby **CHARGES** in favour of the Chargee by way of first fixed charge:

(a) all of its rights under the Agreements; and

(b) all of its rights, title, interest and benefit in and to all Criminal Damage Claims including all proceeds thereof.

3.4 The Chargor as beneficial owner to the intent that the charges contained in this Debenture will be a continuing security for the payment and discharge of the Secured Obligations **HEREBY CHARGES** in favour of the Chargee by way of first floating charge:

(a) all present and future book debts, revenues and monetary claims now or at any time in the future due, owing or incurred to the Chargor together with the benefit of all rights, securities, remedies and guarantees of any nature whatsoever now or at any time enjoyed or held by the Chargor in relation to those book debts, revenues and monetary claims;

(b) all the Chargor's rights, title and interest in and to all other debts in and to which the Chargor has any right, title or interest;

(c) the balance for the time being standing to the credit of any Account (if any) together with all interest on the balance and the debt represented by that Account; and

(d) the undertaking and all other assets and property of the Chargor whatsoever and wheresoever, both present and future and the property and assets referred to in clauses 3.1 to 3.3 of this Debenture to the extent not effectively mortgaged, assigned and/or charged pursuant to this Debenture.

3.5 Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 applies to the floating charge created by clause 3.4.

3.6 The floating charge created by clause 3.4 may not be converted into a fixed charge solely by reason of obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Part 1A of the Insolvency (Northern Ireland) Order 1989.

3.7 Clause 3.6 does not apply in respect of any floating charge referred to in paragraph (7) of article 13DD of Part 1A of the Insolvency (Northern Ireland) Order 1989.

4 SUPPLEMENTARY PROVISIONS

4.1 The Chargor shall during the continuance of the security constituted by this Debenture from time to time do, execute, acknowledge and deliver all and every such further deeds, conveyances, assignments, demises, mortgages, charges, documents and assurances at law as are necessary or advisable or as the Chargee may reasonably require for the purpose of giving the Chargee a valid first fixed and specific mortgage, assignment, charge or security upon all property and assets of the Chargor of the same nature as the Fixed Charge Assets and a valid first floating charge upon the Floating Charge Assets whether already owned or acquired after the execution of this Debenture by the Chargor and for the better granting, conveying, assigning, transfer, demising or charging the same to the Chargee for the purpose referred to in this clause 4.1 and for conferring upon the Chargee such power of sale and other powers over the said property as are expressed to be conferred by this Debenture including

perfecting the security intended to be constituted by this Debenture and for enforcing all or any of the Chargee's rights in or in respect of all or any of the Secured Assets.

4.2 The Chargor hereby attorns tenant to the Chargee of any part of the Mortgaged Property which it has mortgaged by clause 3.1 above at the yearly rent of five pence (if demanded) provided always that the Chargee may at any time without notice to the Chargor determine the tenancy hereby created and enter upon such Mortgaged Property but so that neither the receipt of the said rent nor the said tenancy shall render the Chargee liable to account to any person as mortgagee in possession.

4.3 It is hereby agreed and declared that the Chargor shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the Mortgaged Property which it has mortgaged by clause 3.1 above in trust for the Chargee and to assign, convey or dispose of the same as the Chargee may direct (subject to the proviso for redemption hereinbefore contained) and the Chargee may at any time during the continuance of the security hereby created remove the Chargor or any other person, persons or body corporate from being a trustee of the trust declared by this clause and on the death or removal of the Chargor or such other person.

4.4 The Chargor consents to an application being made by the Chargee to the Land Registry of Northern Ireland for registration of an inhibition to be entered on the relevant folio(s) of all Mortgaged Property (including any unregistered properties subject to compulsory first registration at the date of this Debenture) in the following or substantially similar terms:

"Except under an order of the Court or the Registrar of Titles, all dispositions by the registered owner are inhibited unless consent has been obtained from the owner for the time being of the charge registered on _____."

4.5 This security will be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular will not be considered satisfied by any intermediate repayment or satisfaction of all or any of the monies, liabilities and obligations secured by this Debenture and will continue in full force and effect until final repayment in full and total satisfaction of all monies, liabilities and obligations secured by this Debenture; and if upon such final repayment and satisfaction there shall exist any right on the part of the Chargor or any other person to draw funds or otherwise which, if exercised, would or might cause the Chargor to become actually or contingently liable to the Chargee whether as principal debtor or as surety for another person, then the Chargee will be entitled to retain this security and all rights, remedies and powers conferred by this Debenture, the Secured Assets for so long as shall or might be necessary to secure the discharge of such actual or contingent liability; and in the event that any demand is made by the Chargee under this Debenture the said monies will become due and shall be paid and discharged and all provisions of this Debenture will apply accordingly.

4.6 The security constituted by this Debenture will be in addition to and will not operate so as in any way to prejudice or affect any other security which the Chargee may now or at any time in the future hold for or in respect of all or any part of the monies and liabilities secured by this Debenture, nor will any such other security or any lien to which the Chargee may be otherwise entitled or the liability of any person not party to this Debenture for all or any part of the monies and liabilities secured by this Debenture be in any way prejudiced or affected by this security. The Chargee will have full power at its discretion to give time for payment to or make any other arrangement with any such other person without prejudice to the liability of the Chargor under this Debenture.

- 4.7 If the Secured Obligations covenanted to be paid and discharged in this Debenture have been unconditionally and irrevocably paid, discharged and performed in full the Chargee shall, as soon as reasonably practicable after such payment, discharge and performance and at the request and cost of the Chargor, execute such documents as may be necessary to release, reconvey or re-assign the security created by this Debenture.
- 4.8 If the Chargee receives, or is deemed to be affected by, actual or constructive notice of any subsequent mortgage, charge or assignment or other disposition or interest affecting the Secured Assets or any part of the Secured Assets, the Chargee may open a new account for the Chargor. If the Chargee does not open a new account then, unless the Chargee gives express written notice to the contrary to the Chargor, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice and as from that time all payments made to any account of the Chargor shall be credited or be treated as having been credited to the new account and will not operate to reduce the amount due from the Chargor to the Chargee at the time when the Chargee received or was deemed to have received that notice.
- 4.9 The Chargor hereby agrees that the Chargee may at any time without notice and notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the Chargor's existing accounts wheresoever located (including accounts in the name of the Chargee or the Chargee jointly with others and including any Account and the balance for the time being standing to the credit of such accounts together with all interest accrued on such accounts and the debt represented by such accounts), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in sterling, in euro or in any other currency, and set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the monies, liabilities and obligations which are now or shall for the time being be due, owing or incurred to the Chargee by the Chargor whether such liabilities be present, future or contingent, primary or collateral, several or joint. Where such combination, set-off or transfer requires the conversion of one currency into another, such conversion will be calculated at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing the currency for which the Chargee is liable with the existing currency.

5 CRYSTALLISATION OF FLOATING CHARGE

- 5.1 The Chargee may at any time (either before or after demand has been made for the payment of the monies secured by this Debenture) by notice in writing to the Chargor convert the floating charges created by the Chargor pursuant to clause 3.4 of this Debenture over the Floating Charge Assets of the Chargor into a fixed charge with immediate effect as regards any of the assets specified in the notice which the Chargee considers to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other process levied or threatened or which may be or become in jeopardy or which have been made or may become the subject of an injunction or otherwise attached.
- 5.2 Notwithstanding clause 5.1 and without prejudice to any rule of law which may have a similar effect, the floating charges created by the Chargor pursuant to clause 3.4 of this Debenture over the Floating Charge Assets of the Chargor will, unless otherwise agreed in writing by the Chargee, automatically and without notice from the Chargee to the Chargor be converted

with immediate effect into a fixed charge in respect of any of the Floating Charge Assets of the Chargor which:

- 5.2.1 immediately prior to the time when any of the Floating Charge Assets of the Chargor subject to it become subject to any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention, flawed asset agreement, preferential right or trust arrangement or other security arrangement or agreement or any right conferring a priority of payment or to a disposition contrary to any of the provisions of this Debenture;
 - 5.2.2 if and when any person levies or notifies the Chargor that it or any other person intends to levy any distress, execution, sequestration or other process against those Floating Charge Assets;
 - 5.2.3 if and when the Chargor ceases to carry on business as a going concern;
 - 5.2.4 if any of the monies, obligations and liabilities which are secured by this Debenture and which are now or shall for the time being be due, owing or incurred to the Chargee by the Chargor whether solely or jointly with any other person and whether as principal or surety and including interest, discount, commission and other expenses computed and compounded from time to time become due and outstanding prior to their stated maturity or are unpaid following their stated maturity;
 - 5.2.5 on the presentation of a petition for the compulsory winding-up of the Chargor or a petition for the appointment of an administrator in relation to the Chargor; or
 - 5.2.6 if any meeting of the directors or members of the Chargor is convened for the purposes of considering any resolution for its winding-up or liquidation or for putting the Chargor into administration or insolvency or with a view to a composition, assignment or arrangement with its creditors generally (or any class of its creditors) or any meeting is convened for the purposes of considering any event similar or analogous to the foregoing.
- 5.3 Following a conversion of any floating charge created by this Debenture into a fixed charge, the Chargee shall immediately assume exclusive control of the relevant Floating Charge Assets and the Chargor shall not be permitted to deal with such assets otherwise than with and subject to the prior written consent of the Chargee. Where such assets include Debts of the Chargor, the Chargor shall not be permitted to release, exchange, settle, compromise, set-off, grant time or indulgence, or otherwise deal with such Debts and all monies received by the Chargor or in respect of such Debts will be paid into such account or accounts as the Chargee may specify and the Chargor shall not be permitted to make withdrawals or payments from such account without the prior written consent of the Chargee.
- 5.4 Any asset acquired by the Chargor after the crystallisation of the floating charges created under this Debenture which, but for such crystallisation, would be subject to a floating charge shall, unless the Chargee confirms in writing to the contrary, be charged by way of first fixed charge and the Chargor shall not be permitted to deal with such asset otherwise than with and subject to the prior written consent of the Chargee.
- 5.5 Nothing in this clause 5 shall prejudice or affect any other event which may cause the floating charges created by this Debenture to crystallise over the Secured Assets.

6 NEGATIVE PLEDGE AND RESTRICTIONS ON DEALINGS

6.1 The Chargor shall not:

6.1.1 create, extend or permit to subsist any Security Interest over any of the Secured Assets; or

6.1.2 (a) execute, or agree to grant, vary, or accept any surrender of, any conveyance, transfer, lease, or assignment, or any other right of occupation or use, of the Secured Assets or otherwise dispose of any of the Secured Assets or any interest therein whether in a single transaction or in a series of transactions (whether related or not) and whether voluntarily or involuntarily, (b) create any legal or equitable estate, or other interest, in, over, or relating to, the Secured Assets, (c) agree to, or grant any option in respect of, any of the Secured Assets, or (d) enter into any arrangement under which money, debts or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

6.1.3 pay any dividends, interest or other monies in respect of or forming part of the Secured Assets (whether of the nature of capital or income) to any party other than the Chargee (who shall (as it may think fit) apply the same in or towards the reduction or discharge of the Secured Obligations or any of them and pending any payment to the Chargee shall be held by the Chargor in trust for the Chargee).

6.2 Clause 6.1 does not apply to (a) the Security Interest created or required to be created pursuant to this Debenture, nor (b) any Security Interest, arrangement, transaction or payment in respect of or forming part of the Secured Assets to which the Chargee has given its prior written consent (which consent may be given subject to such conditions as the Chargee in its absolute discretion thinks fit).

6.3 Provided always that if the floating charges at clause 3.4 shall not have crystallised whether pursuant to clause 5 or otherwise, clause 6.1.2 shall not apply to the Floating Charge Assets, where such assets are being dealt with at arms length on commercial terms and in the ordinary course of business for full market value.

7 INSURANCE

7.1 The Chargor shall at all times during the continuance of the security constituted by this Debenture insure and keep insured or cause to be insured and kept insured:

7.1.1 all its buildings, structures, fixed plant and machinery of a kind which is commonly insured by persons owning and operating similar property against loss or damage by fire, flood, explosion, impact by aircraft or articles dropped therefrom, riot, civil commotion and other insurable risks as are commonly insured against from time to time by persons owning and operating similar properties in an amount equal to the full reinstatement cost, allowing for inflation to the likely date of reinstatement;

7.1.2 the Chargor against loss from liability imposed by law as owner or occupier of any property for damages on account of injury suffered by any person while upon such property or the approaches, walks, roads or other ways immediately adjacent thereto in such amount as will reasonably protect the Chargor against loss

provided that if any insurance policy under which such insurance is effected contains an average clause the Chargor shall maintain at all times a sufficient amount of insurance to meet the requirements of such average clause so as to permit full recovery in the case of loss and provided further that the said insurance policies may contain excess clauses to such amounts as may be approved by the Chargee (such approval not to be unreasonably withheld).

- 7.2 The Chargor shall at the request of the Chargee insure its other property and assets of a character usually insured against such insurable risks and in such amounts as may be reasonably required by the Chargee.
- 7.3 All such insurance shall be effected in or with such insurance company or companies or underwriters as the Chargor may select and the Chargee may approve (such approval not to be unreasonably withheld) in the joint names of the Chargor and the Chargee or at the option of the Chargee in the name of the Chargor with the interest of the Chargee noted on the policies.
- 7.4 The Chargor shall duly and promptly pay or cause to be paid all premiums and other sums of money payable for maintaining any such insurance as aforesaid and shall cause the insurance monies under all policies covering the Secured Assets to be made payable to the Chargee or otherwise deal with such policies and contracts of insurance in such manner as to enable the insurance monies on all losses to be collected by the Chargee.
- 7.5 All policies covering the Secured Assets shall contain clauses whereby the insurer agrees that the policies will not be cancelled or terminated and will not expire without 10 days notice in writing to the Chargee or provisions to this effect to the extent from time to time available from insurers.
- 7.6 Contemporaneously with the execution of this Debenture, the Chargor shall deliver to the Chargee policies or cover notes or other evidence acceptable to the Chargee of the insurance required to be maintained under clause 7.1, and on or prior to the expiry of any insurance policy the Chargor will exhibit or deliver to the Chargee a renewal receipt, cover note or new policy (or a certified copy of such renewal receipt, cover note or new policy) replacing such expiring insurance or otherwise satisfy the Chargee that such insurance is being renewed.
- 7.7 All monies paid to the Chargor and representing proceeds paid under any policies or contracts of insurance as a result of actual damage to or destruction of the Secured Assets shall be paid to the Chargee and may be applied by the Chargee:
- 7.7.1 to the payment of the indebtedness secured by this Debenture in the event the security constituted by this Debenture is enforceable while such monies are still in the hands of the Chargee; or
- 7.7.2 on and subject to such reasonable terms and conditions as the Chargee may impose to meet the costs of repairing, reconstructing or replacing the property damaged or destroyed

and the balance, if any, shall be paid to the Chargor.

8 CRIMINAL DAMAGE

- 8.1 The Chargor shall:
- 8.1.1 notify the Chargee in writing as soon as reasonably practicable and in any event within three (3) Business Days after becoming aware of any event or circumstance which will or is likely to, give rise to a Criminal Damage Claim by or in the name of the Chargor in relation to any of the Mortgaged Property specifying in reasonable detail the nature of the event or circumstance which will, or is likely to give rise to a Criminal Damage Claim and the extent of the damage to the Mortgaged Property;
 - 8.1.2 at the Chargor's cost, take such action (including legal proceedings) and give such information and access to personnel, legal chattels, documents and records to the Chargee and its professional advisers as may be reasonably requested in order to make, dispute, settle or appeal and Criminal Damage Claim or any adjudication thereof; and
 - 8.1.3 make no agreement, settlement or compromise in relation to any Criminal Damage Claim without the prior written consent of the Chargee.
- 8.2 If the Chargor defaults in complying with clause 8.1, the Chargee may take such action as it reasonably considers appropriate to ensure compliance with that clause, and all monies expended by the Chargee in doing so shall be reimbursed by that Chargor to the Chargee on demand.
- 8.3 All monies received under any Criminal Damage Claim relating to the Mortgaged Property shall be applied in accordance with the terms of clause 7.7 of this Debenture.

9 GENERAL PROTECTION OF ASSETS

- 9.1 The Chargor shall also at all times during the continuance of the security constituted by this Debenture:
- 9.1.1 not, without the previous consent in writing of the Chargee, remove or destroy any of the buildings, plant, machinery, fixtures, fittings, vehicles, computers and office and other equipment or any structure whatsoever now or in the future owned by the Chargor unless that property is worn out or rendered unfit for use or unless such removal or destruction shall be with a view immediately to replacing that property by other property of a more useful or convenient character and of at least equal value or utility;
 - 9.1.2 keep all buildings for the time being comprised in its undertaking, property and assets and all plant, machinery, fixtures, fittings, vehicles, computers and office and other equipment in, upon or about the same and used for the purpose of or in connection with its business in such state of repair and in such working order and condition as from time to time it considers proper for the purpose of the efficient and economic carrying on of its business, and permit the Chargee or any person as it may from time to time in writing for that purpose appoint to enter into and upon the said buildings to view their state and condition and of all such plant, machinery and other property referred to in this clause 9.1.2 and promptly furnish the Chargee with all information as it may from time to time require regarding the location and physical state and condition of the Secured Assets;

9.1.3 notify the Chargee in writing of all of the Chargor's Intellectual Property Rights, observe and perform all covenants and stipulations affecting the use and enjoyment of the Chargor's Intellectual Property Rights and make such applications and maintain such registrations at its own expense to keep those registered Intellectual Property Rights which are material to the Chargor's business in force and to record the Chargor's interest in those Intellectual Property Rights, take such steps at its own expense (and in any event, promptly upon a request from the Chargee) as are within its power (including, without limitation, the institution of legal proceedings) to prevent third parties infringing the Intellectual Property Rights and not to do, fail to do or permit to be done anything that might infringe or affect the existence or value of any of its Intellectual Property Rights and procure that any further Intellectual Property Rights licensed to it are freely assignable and chargeable to the Chargee;

9.1.4 If requested to do so by the Chargee from time to time, make entries in any appropriate public register (in the United Kingdom, Ireland or elsewhere) of the Chargor's Intellectual Property Rights which record the existence of this Debenture;

9.1.5 in the event of a notice being served affecting the Secured Assets or any part of the Secured Assets or in the event of any proceedings being commenced affecting the Secured Assets immediately give full particulars of the notice or proceedings to the Chargee;

9.1.6

- (a) do, observe and perform all its obligations and all matters and things necessary or expedient to be done, observed and performed under or by virtue of every lease, licence, fee farm grant, agreement or other instrument relating to its freehold and leasehold property and every other lease, licence and agreement to which the Chargor is party so as to preserve, protect and maintain all of the rights of the Chargor in them;
- (b) not suffer or permit any default for which any of the same may be terminated or as a result of which any party thereto may be relieved of any liability or obligation but, on the contrary, exercise and enforce from time to time all its rights and remedies;
- (c) if and when entitled to do so, and when necessary renew all such leases, licences and agreements so long as the same have utility or commercial value; and
- (d) conduct its business in such a way as not to endanger or lead to the curtailment, forfeiture or suspension of any such leases, licences and agreements or cause any penalty or disqualification.
- (e) on the expiration of any such leases, licences and agreements, obtain new leases, licences or agreements as the case may be on the most favourable terms available so long as the same have utility or commercial value;
- (f) not cause any person to become a protected or statutory tenant of any of the property secured by this Debenture or any part thereof under the

Housing (Northern Ireland) Orders 1981-2003, the Rent (Northern Ireland) Order 1978, the Business Tenancies (Northern Ireland) Order 1996 and the Private Tenancies (Northern Ireland) Order 2006, and any re-enactment, variation or modification of any of them and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Orders or any of them;

9.1.7

- (a) not exercise the statutory powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by the Acts without the prior written consent of the Chargee;
- (b) not without such consent either in the purported exercise of the said statutory powers or otherwise grant or agree to grant or accept or agree to accept a surrender of any lease, licence or tenancy of the property secured by this Debenture or any part thereof;
- (c) and not without the written consent of the Chargee sell, convey, assign or transfer the property secured by this Debenture or any interest therein or any part thereof; and
- (d) not part with possession or occupation of the property secured by this Debenture or any part thereof without the prior written consent of the Chargee;

9.1.8 comply with the provisions of all present and future statutes and every notice, order, direction, licence, consent or permission given or made under those statutes (including without limitation all applicable Environmental Laws and Environmental Licences) and the requirements of any competent authority so far as any of the same shall relate to its assets or their user or anything done on the freehold and leasehold property comprised in the Secured Assets, and use all its freehold and leasehold property comprised in the Secured Assets only for purposes for the time being authorised as the permitted use or user thereof under or by virtue of the Planning Acts;

9.1.9 not carry out any development within the meaning of the Planning Acts in or upon any such freehold or leasehold property without first obtaining such permission as may be required under or by virtue of the Planning Acts and first obtaining the prior written approval of the Chargee;

9.1.10

- (a) within seven days after the receipt of any notice or proposal for a notice or order or proposal for an order given, issued or made to the Chargor by a planning authority under or by virtue of the Planning Acts in respect of any such freehold and leasehold property, give full particulars of the notice, proposal or order to the Chargee;
- (b) if so required by the Chargee, produce the notice, proposal or order;

- (c) without delay take all reasonable or necessary steps to comply with such notice or order; and
- (d) at the request of the Chargee, make or join with the Chargee in making such application, appeal or representations against or in respect of any proposal for such notice or order as the Chargee may deem expedient;

9.1.11 pay or cause to be paid all rents, taxes, rates, assessments, impositions, calls and outgoings, whether governmental, municipal or otherwise, imposed upon or payable in respect of the Secured Assets or any part of the Secured Assets as and when the same become payable, and also punctually pay and discharge, or cause to be paid and discharged, all debts and obligations to or in respect of persons employed by the Chargor which by law may have priority over the security created by this Debenture;

9.1.12 not to trade under conditions imposing reservation of title in favour of creditors and, if such trading does occur, immediately advise the Chargee of the terms of such trading including details of contract, names of suppliers and amounts involved;

9.1.13

- (a) procure that the Chargor's present and future debtors pay into an Account all monies due, owing or incurred in respect of the Debts; and
- (b) immediately remit to the Chargee any such monies which come into the hands of the Chargor for payment into an Account and, until so remitted, hold such monies shall be held as trustee for the Chargee;

9.1.14

- (a) not, without the prior written consent of the Chargee, purport to charge, sell, assign, factor, transfer, discount or otherwise dispose of, or permit to subsist, any charge or lien over the Debts or any Account or any interest in the Debts or any Account in favour of any other person;
- (b) save to the extent that the Chargee otherwise agrees in writing, not withdraw or direct any payment of all or any monies (including interest) standing to the credit of any Account; and
- (c) if called upon to do so by the Chargee, execute a legal assignment of the Debts to the Chargee;

9.1.15 not without the prior written consent of the Chargee permit or agree to any variation of the rights attaching to the Debts or any of them;

9.1.16 not without the prior written consent of the Chargee, release, exchange, compound, set-off, grant time or indulgence in respect of or in any other manner deal with all or any of the Debts save as expressly provided in this Debenture;

9.1.17 at its own expense institute, continue or defend all such proceedings in connection with the Debts as the Chargee may require;

9.1.18 not carry on its business in relation to the Debts otherwise than as set out in clauses 9.1.13 to 9.1.17 or otherwise than as permitted by this Debenture;

9.1.19 duly and promptly pay all calls, instalments or other monies which may from time to time become due in respect of any of the Securities, it being acknowledged by the Chargor that the Chargee shall not in any circumstances incur any liability whatsoever in respect of any such calls, instalments or other monies;

9.1.20 deliver to the Chargee:

(a) all certificates or documents of title in respect of the Securities together with a duly executed instrument of transfer or assignment (as appropriate) of the Securities in blank, and it is agreed that the Chargee will be entitled at any time to have all or any of the Securities registered in the name of the Chargee or of such nominee as the Chargee may select;

(b) any other documents the Chargee may from time to time require in order to perfect its security over the Securities (signed on behalf of the registered holder) or for vesting or enabling it to vest the same in itself, its nominees or in any purchaser, to the intent that the Chargee is hereby authorised at any time without notice to present all such documents for registration in its own name or in the name of such nominee as it may select;

(c) or pay to the Chargee, or procure that there are delivered or paid to the Chargee, all stocks, shares, securities, rights, monies or other property accruing, offered or issued at any time by way of bonus, redemption, exchange, purchase, substitution, conversion, preference, option or otherwise in respect of any of the Securities or the certificates or other documents of title to or representing them together with an executed instrument.

9.2 The Chargor shall:

9.2.1 institute and maintain all such proceedings as may be necessary or expedient to preserve or protect the interests of the Chargee, the Chargee and the Chargor in connection with the Agreements;

9.2.2 perform all its obligations under the Agreements in a diligent and timely manner;

9.2.3 not rescind, terminate, novate or permit rescission, termination or novation of the Agreements nor make or agree to make any amendments or modifications to the Agreements or waive or compromise any of its rights under the Agreements nor release any party thereto from its obligations under the Agreements or accept or make any claim that any Agreement has been frustrated or has ceased to be in full force except in any case with the prior written consent of the Chargee;

9.2.4 promptly inform the Chargee of (i) any disputes relating to the Agreements and/or (ii) any default by any party to the Agreements; and

9.2.5 at the Chargee's request deposit with the Chargee (or as the Chargee directs) all deeds and documents of title relating to the Agreements.

- 9.3 The Chargor shall give notice of each charge or assignment of all (if any) its right, title and interest (if any) in and to the Agreements by sending a notice in the form set out in Part 1 of the Third Schedule hereto (with such amendments as the Chargee may agree or require) duly completed to each of the parties to each of such Agreements and the Chargor shall procure that, within 14 days of its receiving a request to give such notice to the relevant other party, that other party delivers an acknowledgement to the Chargee in the form of the acknowledgement of notice endorsed on a copy of the relevant notice as set out in Part 1 of the Third Schedule hereto;
- 9.4 Whilst no Enforcement Event has occurred the Chargee shall permit the Chargor to exercise its rights under any of the Agreements to which it is party, provided that the exercise of those rights in the manner proposed would not result in an Enforcement Event.
- 9.5 Following the occurrence of an Enforcement Event the Chargor shall exercise its rights under any of the Agreements to which it is a party in accordance with the instructions of the Chargee.
- 9.6 The Chargor shall at all times remain liable to perform all the obligations assumed by it under the Agreements and the Chargee shall assume no obligation of any kind whatsoever under the Agreements, nor be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Agreements and the Chargor will at all times indemnify the Chargee from and against any demands, claims, damages, costs or expenses arising from or in relation to the Agreements or any such failure by the Chargor.
- 9.7 The Chargee shall not be obliged to enforce against any other party to any Agreement, any term of any Agreement or to make any enquiries as to the nature or sufficiency of any payment received by the Chargee.
- 9.8 If the Chargor fails to perform any obligation on its part contained in this Debenture, the Chargee may itself or by any agents perform any of the said covenants capable of being performed by it or by such agents, and if any such obligation requires the payment or expenditure of money the Chargee may make such payment or expenditure with their own funds or with money borrowed by or advanced to them for such purpose but will be under no obligation so to do; all sums so expended or paid shall be added to the indebtedness secured by this Debenture and will bear interest accordingly and will be payable on demand.

10 ENFORCEMENT

The security constituted by this Debenture shall be enforceable and the monies secured by this Debenture shall become due and payable immediately upon and at any time after the occurrence, for any reason, whether within or beyond the control of the Chargor of an Enforcement Event (unless there has been a request from the Chargor for the appointment of a Receiver, in which case it will be exercisable at any time following the making of such request). At any time after the security constituted by this Debenture has become enforceable, the statutory powers conferred by the Acts, as varied, disappplied and/or extended by this Debenture shall become exercisable.

11 ADMINISTRATOR

- 11.1 The Chargee may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 15 of Schedule B1 of the Insolvency

(Northern Ireland) Order 1989 if the security constituted by this Debenture becomes enforceable.

11.2 Any appointment under this clause 11 shall:

11.2.1 be in writing signed by a duly authorised signatory of the Chargee; and

11.2.2 take effect in accordance with B1 of the Insolvency (Northern Ireland) Order 1989.

11.3 The Chargee may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 11 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

12 RECEIVER

12.1 At any time after the occurrence of an Enforcement Event the Chargee may from time to time appoint (i) by deed in writing under hand or seal or (ii) under the Acts, any person or persons considered by it to be competent to be a receiver, a receiver and manager or an administrative receiver (hereinafter called a "Receiver" which expression will, where the context so admits, include the plural and any substituted receiver, receiver and manager or administrative receiver) of any part of the Secured Assets. The Chargee may from time to time in writing under the hand of a duly authorised officer of or seal of the Chargee remove any Receiver so appointed and appoint another in his stead (subject to article 55 of the Insolvency (Northern Ireland) Order 1989 in the case of an administrative receiver). If the Chargee appoints more than one person as Receiver of any of the Secured Assets, each such person shall be entitled (unless the contrary shall be stated in the appointment) to exercise all the powers and discretions hereby or by statute conferred on Receivers individually and to the exclusion of the other or others of them.

12.2 The power to appoint a Receiver conferred by this Debenture shall be in addition to all statutory and other powers of the Lender under the Insolvency (Northern Ireland) Order 1989, the Acts or otherwise, and shall be exercisable without the restrictions contained in Sections 20 and 24 of the 1881 Act or otherwise.

12.3 The Chargee may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part 1A of the Insolvency (Northern Ireland) Order 1989 other than in respect of a floating charge referred to in Part 1A of the Insolvency (Northern Ireland) Order 1989.

12.4 A Receiver so appointed will be the agent of the Chargor, and the Chargor will be solely responsible for his acts and defaults, and the Chargee will have power from time to time to fix the remuneration of any Receiver appointed by the Chargee without the restrictions contained in Section 24 of the 1881 Act and to direct payment thereof out of the Secured Assets or any part thereof, but the Chargor will alone be liable for the payment of such remuneration.

12.5 A Receiver so appointed will have and be entitled to exercise all rights, powers and discretions conferred on a receiver (or a receiver and manager) by the Acts (except where expressly disapplied by this Debenture), together with all rights, powers and discretions conferred on an administrative receiver under the Insolvency (Northern Ireland) Order 1989 (whether it is an administrative receiver or not) and the following additional powers:

- 12.5.1 to enter upon, take possession of, collect and get in all or any part of the property in respect of which the Receiver is appointed, and to manage the same, and for that purpose take any proceedings in the name of the Chargor or otherwise as may seem expedient;
- 12.5.2 carry on or manage or develop or diversify or concur in carrying on or managing or developing or diversifying the business of the Chargor, and for that purpose raise money on any part of the property in respect of which the Receiver is appointed in priority to this security or otherwise;
- 12.5.3 exercise all or any of the powers which an absolute owner would have of managing and superintending the management of the property in respect of which the Receiver is appointed, and in particular to sell or concur in selling, let or concur in letting, exchange, surrender and/or accept surrenders of leases of any part of such property in such manner and generally on such terms and conditions as the Receiver thinks fit, and to carry any such sale, letting, exchanging or surrender into effect by conveying, leasing, letting, surrendering or accepting surrenders in the name of or on behalf of the Chargor or otherwise; any such sale may be for cash, debentures or other obligations, shares, stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as the Chargee or the Receiver may think fit and so that any consideration or part of such consideration received in a form other than cash shall *ipso facto* forthwith on receipt be and become charged with the payment of all the monies secured by this Debenture as though it had been included in the charge hereby created and formed part of the Secured Assets (as the case may be). Plant, machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the Chargor being obtained thereto;
- 12.5.4 make any arrangements or compromise which the Receiver or the Chargee may think expedient;
- 12.5.5 to acquire, renew, extend, grant, vary or otherwise deal with such superior or inferior interest or interests in the Mortgaged Property and/or such easements, rights, privileges and/or licences over or for the benefit of the Mortgaged Property or any part thereof as may be considered expedient;
- 12.5.6 to borrow or raise or secure the payment of money which may be required for the exercise of any of the powers herein contained in such manner including the creation of new mortgages or charges of the Mortgaged Property (whether or not in priority to the charge hereby created) as may be considered expedient;
- 12.5.7 to obtain, renew, extend, amend or otherwise deal with such permissions, consents and/or licences for the benefit of or otherwise connected with or ancillary to the Mortgaged Property or any part thereof or its use or development or the business comprised therein as may at his discretion be considered necessary or desirable;
- 12.5.8 to manage to carry on or concur in carrying on the business of the Company as may be thought fit and without any liability for loss or damage;

- 12.5.9 to employ on such terms as may be thought fit solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, agents, servants, builders and workmen and others and purchase all proper materials as may be considered expedient in connection with the management of the Mortgaged Property or any part thereof and to discharge any persons so employed;
- 12.5.10 to take or defend or otherwise join in any proceedings concerning or incidental to the Mortgaged Property or any part thereof or to any of the foregoing powers;
- 12.5.11 to make any arrangement or compromise or enter into any contracts which may be thought expedient in the interest of the Chargee;
- 12.5.12 to promote the formation of subsidiary companies of the Company with a view to such subsidiaries purchasing the Mortgaged Property or any part thereof;
- 12.5.13 make and effect any repairs, renewals and improvement of the plant, machinery and effects of the Chargor which the Receiver or the Chargee may think necessary and to maintain or renew all insurances;
- 12.5.14 make calls conditionally or unconditionally on the members of the Chargor in respect of the uncalled capital of the Chargor with such and the same powers for the purpose of enforcing payment of any calls so made as are by the Constitution of the Chargor conferred on the directors of the Chargor in respect of calls authorised to be made by them in the names of the directors or in that of the Chargor or otherwise and to the exclusion of the directors' power in that behalf;
- 12.5.15 appoint managers, officers, servants, workmen and agents for the above purposes at such salaries and for such periods as the Receiver may determine;
- 12.5.16 enter upon any part of the Secured Assets from time to time with or without workmen and others for the purpose of making and effecting any repairs, renewals or alterations to any part of the Secured Assets including (without prejudice to the generality of the foregoing) the completion of any buildings in the course of erection or other works in progress thereon which the Receiver may think necessary, and appoint architects, surveyors, contractors, workmen and agents for the above purposes on such terms as the Receiver may determine, and (without prejudice to the power hereinafter conferred) borrow from the Chargee on the account of the Chargor all such monies as the Receiver may require for the above purposes to the intent that all monies advanced by the Chargee to the Receiver for the said purposes will be secured by this Debenture; and
- 12.5.17 to do all such other acts and things as may be considered necessary or desirable for the management or realisation of the Mortgaged Property or any part thereof or incidental or conducive to any of the matters, powers or authorities conferred on a receiver whether by law or under or by virtue of this Deed and to exercise and do in relation to the Mortgaged Property or any part thereof all such powers, authorities and things as he would be capable of exercising if he were the absolute beneficial owner of the same.

12.6 All monies received by the Receiver shall be applied by the Receiver for the following purposes (subject to the claims of secured or unsecured creditors (if any) ranking in priority to this Debenture) and in the following order:

12.6.1 in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of the above powers and of all outgoings properly paid by the Receiver;

12.6.2 in payment of remuneration to the Receiver at such rate as may be agreed between the Receiver and the Chargee; and

12.6.3 in or towards payment of all monies the payment of which is secured by this Debenture

and any surplus shall be paid to the Chargor or any other person entitled thereto. The provisions of Section 24(8) of the 1881 Act shall not apply to this Debenture.

12.7 No purchaser or other person will be bound or concerned to see or enquire whether the right of the Chargee or any Receiver appointed by the Chargee to exercise any of the powers conferred by this Debenture has arisen or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

13 LIABILITY OF CHARGEES AND RECEIVER

13.1 Neither the Chargee nor any Receiver appointed under this Debenture will be liable to account as mortgagee or mortgagees in possession in respect of any of the Secured Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever (except to the extent that the same results from their negligence or wilful default) in connection with any of the Secured Assets for which a mortgagee in possession might as such be liable, and all costs, charges and expenses incurred by the Chargee or any Receiver appointed under this Debenture (including the costs of any proceedings to enforce the security hereby given) shall be paid by the Chargor concerned on a solicitor and own client basis and will be charged on the Secured Assets.

13.2 In the event that the Chargee takes possession under this Debenture of the Secured Assets or any part or parts of the Secured Assets or otherwise exercises any statutory powers or any additional powers set forth in this Debenture, it will not be accountable as a mortgagee in possession of the Secured Assets as the case may be.

13.3 In the event that the Chargee or any Receiver appointed by the Chargee under this Debenture enter into possession of any of the Secured Assets or any part of the Secured Assets, the Chargee or such Receiver as the case may be is/are hereby irrevocably authorised as agent of the Chargor to list, and to remove, store, sell or otherwise dispose of, all or any furniture or other chattels which have not been removed from the said property at the expiration of seven days from the date of such entry into possession, and any list so made will be conclusive evidence as between the Chargee and such Receiver and the Chargor of the matters therein contained, and the Chargor shall indemnify the Chargee and the Receiver against all claims and demands in respect of such removal, storage, sale or other disposition and against all costs and expenses incurred in connection therewith.

- 13.4 The Chargee will not be liable for any involuntary losses which may happen in or about the exercise or execution of the statutory power of sale or any of the powers or trusts expressed or implied which may be vested in the Chargee by virtue of this Debenture.

14 CHARGEES AS MORTGAGEES IN POSSESSION

- 14.1 In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Acts as more particularly detailed in clause 15, at any time after the Chargee in accordance with the provisions of this Debenture enters into possession of the Secured Assets or any part of the Secured Assets, the Chargee will have power to:

14.1.1 effect and carry out upon any building or erection for the time being comprised in such part of the Secured Assets of which the Chargee is in possession any such repairs, amendments, alterations and additions as the Chargee may reasonably consider necessary or desirable for the maintenance or protection of all or any part of the Secured Assets;

14.1.2 demise or agree to demise any of the Secured Assets or any part of the Secured Assets of which the Chargee is in possession for such period at such rent and upon such terms with or without a premium or fine in all respects as the Chargee may from time to time think fit; and

14.1.3 perform or cause to be performed all acts and things requisite or desirable according to the law of the country in which the Secured Assets or any part of the Secured Assets of which the Chargee is in possession is situate for the purpose of giving effect to the exercise of any of the said powers, authorities and discretions.

15 STATUTORY POWERS AND OBLIGATIONS

- 15.1 For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.

- 15.2 At any time after the security constituted by this Debenture has become enforceable (in accordance with clause 10) the power of sale and all other powers conferred on mortgagees by the Acts (as varied or extended by this Debenture) shall be exercisable immediately.

- 15.3 The provisions of Section 20 of the 1881 Act shall not apply to this Debenture.

- 15.4 The statutory powers of leasing conferred on the Chargee and any Receiver by the Acts and any other statute are extended so as to authorise the Chargee and any Receiver to lease, make agreements for leases, accept surrenders of leases and make agreements to accept surrenders of leases as it or he may think fit and without the need to comply with any of the restrictions imposed by Section 18 of the 1881 Act or Section 3 of the 1911 Act.

- 15.5 The restriction on the right of consolidation contained in Section 17 of the 1881 Act shall not apply to this Debenture.

- 15.6 Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the Acts on mortgagees and receivers.

16 FINANCIAL COLLATERAL

16.1 To the extent that:

16.1.1 the Secured Assets constitute Financial Collateral; and

16.1.2 this Debenture and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

the Chargee shall have the right, at any time after the security constituted by this Debenture has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Obligations in any order that the Chargee may, in its absolute discretion, determine.

16.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

16.2.1 in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and

16.2.2 in the case of any other assets, the market price of those assets at the time the right of appropriation is exercised determined by the Chargee by reference to a recognised market index or by any other method that the Chargee may select (including independent valuation).

16.3 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

17 CURRENCY CLAUSES

17.1 All monies received or held by the Chargee or by a Receiver under this Debenture may from time to time after demand has been made be converted into such other currency as the Chargee considers necessary or desirable to cover the obligations and liabilities of the Chargor in that currency at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing the currency to be acquired with the existing currency.

17.2 If and to the extent the Chargor fails to pay the amount due on demand, the Chargee may in its absolute discretion without notice to the Chargor purchase at any time thereafter so much of a currency as the Chargee considers necessary or desirable to cover the obligations and liabilities of the Chargor in such currency, secured by this Debenture, at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing such currency with euro and the Chargor hereby agrees to indemnify the Chargee against the full euro price (including all costs, charges and expenses) paid by the Chargee.

17.3 No payment to the Chargee (whether under any judgment or court order or otherwise) will discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Chargee receives payment in full in the currency in which such obligation or liability was incurred, and to the extent that the amount of any such payment, on actual conversion into such currency, fall short of such obligation or liability expressed in that currency, the Chargee will have a further separate cause of action against the Chargor and will be entitled to enforce the charges created by this Debenture to recover the amount of the shortfall.

18 MISCELLANEOUS PROVISIONS

18.1 *Costs:*

18.1.1 All costs, charges and expenses (on a full indemnity basis) properly occasioned by or incidental to this or any other security held by or offered to the Chargee for the same indebtedness or by or to the enforcement of any such security and incurred, suffered or paid by the Chargee will be charged on the Secured Assets and will be treated as monies due from the Chargor to the Chargee on current account and will bear interest and be secured accordingly.

18.1.2 The charges conferred by this Debenture will be in addition and without prejudice to any and every other remedy, lien or security which the Chargee may or but for the said charges would have for the monies and liabilities secured by this Debenture.

18.1.3 The Chargor shall pay all stamp, registration and other taxes to which this Debenture or any judgment given in connection with this Debenture is or at any time may be subject and shall indemnify the Chargee against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

18.1.4 Any certificate or determination of the Chargee as to any matter provided for in this Debenture will be conclusive and binding on the Chargor.

18.2 *Interest:* Any interest payable under the terms of this Debenture will be payable as well after as before any judgment.

18.3 *Power of Attorney:* The Chargor by way of security hereby irrevocably appoints and constitutes the Chargee and any Receiver appointed by the Chargee under this Debenture jointly and also severally the attorney and also the attorneys of the Chargor on the Chargor's behalf and in the name of the Chargor and as its act and deed to do all acts and to execute, seal or otherwise perfect any deed, assurance, agreement, instrument, document or act which the Chargor could itself do in relation to the Secured Assets or which may be required or which may be deemed proper for any of the matters provided for in this Debenture including, without limitation to the generality of the foregoing, to complete any details in any stock transfer form deposited with the Chargee in connection with this Debenture.

18.4 *Notices:*

18.4.1 Any notice or demand for payment to be given or served under this Debenture shall be in writing and shall be duly expressed to be a notice or demand under this Debenture and will be deemed duly given or served if sent by facsimile at the time of transmission (subject to the correct code or facsimile number being received) or if posted 48 hours after the time at which it was posted or, if delivered by hand, at the time of delivery if such a day is a Business Day or if such day is not a Business Day on the next following Business Day, to the party to whom it is to be given or served at its address set out below or such other address or facsimile number as such party may have previously communicated for such purpose by notice to the party giving such first mentioned notice or demand. The addresses and facsimile numbers for service on the parties to this Debenture are:

The Chargor Address:

Portglenone Refrigeration Services
Limited, 53 Main Street,

Portglenone, County Antrim, BT44
8HP

Attention: The Directors

The Chargee Address: 10 Molesworth Street
Dublin 2

Attention: Hugh Mansfield

18.4.2 Any party giving or serving a notice or demand under this Debenture by facsimile shall, but without prejudice to the validity of the notice or demand given, send a copy of the notice or demand by pre-paid registered post to the party receiving such notice or demand to that party's address set out in clause 18.4.1 or to such other address as such party shall have previously communicated by notice to the party giving such first-mentioned notice or demand.

18.4.3 Any notice or demand given or served under this Debenture will be deemed to have been received by the party so receiving such notice or demand on the Business Day of such receipt only if the notice or demand has been received during usual business hours on such Business Day, and if the notice or demand is received outside usual business hours it will be deemed to have been received on the next following Business Day.

18.5 *Waiver and Forbearance:*

18.5.1 The rights of the Chargee will not be prejudiced or restricted by any indulgence or forbearance extended to the Chargor or other parties, and no waiver by the Chargee in respect of any breach will operate as a waiver in respect of any subsequent breach.

18.5.2 No failure or delay by the Chargee in exercising any right or remedy will operate as a waiver of such right or remedy, nor will any single or partial exercise or waiver of any right or remedy prevent its further exercise or the exercise by the Chargee of any other right or remedy.

18.6 *Remedies Cumulative:* The rights and remedies of the Chargee under this Debenture are cumulative and are without prejudice and in addition to any rights or remedies which the Chargee may have at law or in equity. No exercise by the Chargee of any right or remedy under this Debenture, or at law or in equity, shall (save to the extent, if any, provided expressly in this Debenture, or at law or in equity) operate so as to hinder or prevent the exercise by it of any other right or remedy. Each and every right and remedy may be exercised from time to time as often and in such order as may be deemed expedient by the Chargee.

18.7 *Severability:* If a term or provision in this Debenture is or becomes illegal, invalid or unenforceable, in whole or in part, in any respect (or any of the security intended to be created by or pursuant to this Debenture is ineffective) under the law of any jurisdiction, such illegality, invalidity or unenforceability shall not affect:

18.7.1 the legality, validity or enforceability of the remaining provisions or the effectiveness of any of the other provisions of this Debenture in that jurisdiction; or

18.7.2 the legality, validity or enforceability of such provision or the effectiveness of any other provision of this Debenture under the laws of any other jurisdiction.

18.8 *Assignment:*

18.8.1 The Chargor may not assign nor enter into any trust arrangement with any third party in respect of any of its rights under this Debenture.

18.8.2 The Chargee will be entitled to assign the benefit of this Debenture or any part of this Debenture to any person, and the Chargor hereby consents to any such assignment. The Chargee will be entitled to impart any information concerning the Chargor to any assignee or successor in title (or prospective assignee or successor).

18.8.3 In the event of assignment by the Chargee as permitted by clause 18.8.2, the Chargor shall at the request of the Chargee join in such assignment so as to cause full beneficial title to the security created by this Debenture to be passed to the relevant assignee.

18.9 *Third Party Rights:* Except as expressly provided elsewhere in this Debenture, a person who is not a party to this Debenture shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Debenture. This does not affect any right or remedy of a third party which exists, or is available, apart from the Contracts (Rights of Third Parties) Act 1999.

18.10 *Counterparts:* This Debenture may be entered into in the form of two or more counterparts, each executed by one of the parties but, taken together, executed by all, and, provided that all of the parties so enter into the Debenture, each of the executed counterparts, when duly exchanged or delivered, will be deemed to be an original but, taken together, will constitute one instrument.

18.11 *Variation:* This Debenture may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties to this Debenture.

18.12 *Governing law and Jurisdiction:*

18.12.1 This Debenture and all relationships created hereby will in all respects be governed by and construed in accordance with the laws of Northern Ireland.

18.12.2 The Chargor hereby agrees for the exclusive benefit of the Chargee that any legal action or proceedings ("Proceedings") brought against the Chargor with respect to this Debenture may be brought in the courts of Northern Ireland, and the Chargor waives any objection to Proceedings in such courts whether on grounds of venue or on the grounds that Proceedings have been brought in any inconvenient forum. The Chargor undertakes to enter an unconditional appearance within 14 days after the completion of any service or process in any Proceedings. The Chargor hereby consents to the service by post of any process issued in connection with this Debenture. Nothing in this Debenture will affect the right to serve process in any other manner permitted by law.

18.12.3 Nothing contained in this Debenture will limit the right of the Chargee to take Proceedings against the Chargor in any other court of competent jurisdiction, nor will the taking of any Proceedings in any one or more jurisdictions preclude the taking by the Chargee of Proceedings in any other jurisdiction whether concurrently or not.

IN WITNESS whereof this Debenture has been duly executed as a deed on the date first above written.

FIRST SCHEDULE

Mortgaged Property

ALL THAT AND THOSE

SECOND SCHEDULE

Part 1 Shares

None

Part 2 Agreements

None

Part 3 Intellectual Property Rights

None

Part 4 Accounts

None

THIRD SCHEDULE
Part 1
Form of notice to counterparties of Agreements

To: [name and address of Counterparty]

Dated: [date]

Dear Sirs,

Re: [here identify relevant Agreement] [the "Agreement"] made between (1) Portglenone Refrigeration Services Limited (the "Chargor") and (2) [here insert name of Counterparty]

We, the Chargor, give you notice that, by a debenture dated [date] 2021 (the "Debenture") and made by (amongst others) ourselves in favour of Allied Irish Banks, p.l.c. (the "Chargee"), we have [charged by way of fixed charge] [and] [assigned] to the Chargee, as first priority [chargee] [and] [assignee], all of our rights, title and interest in the Agreement.

We further irrevocably and unconditionally:

1. notify you that we may not agree to amend, modify or terminate the Agreement without the prior written consent of the Chargee;
2. confirm that, subject to paragraph 1 above, you may continue to deal with us in relation to the Agreement until you receive written notice to the contrary from the Chargee (the "Notice"), but authorise and instruct you that, after you have received the Notice, we will cease to have any right to deal with you in relation to the Agreement except in accordance with the instructions of the Chargee and therefore from that time you may deal directly with the Chargee;
3. authorise and instruct you to disclose information in relation to the Agreement to the Chargee promptly on request, without any enquiry by you as to the justification for such disclosure or reference to or further authority from us;
4. authorise and instruct you to pay or release all monies to which we are entitled under the Agreement directly into [specify designated bank account] or, if the Chargee so instructs you, into such other account as the Chargee shall specify;
5. authorise and instruct you that, whenever you serve any notice upon us under the Agreement, you should supply a copy of such notice to the Chargee at its address given in the copy of this notice (or as otherwise notified to you by it from time to time); and
6. notify you that the provisions of this notice may only be revoked with the written consent of the Chargee.

Please sign the copy of this notice and deliver it to the Chargee (with a further copy to us),

This notice and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

Yours faithfully,

For and on behalf of
Portglenone Refrigeration Services Limited

[to be included on copy notice]

To: ALLIED IRISH BANKS, p.l.c. of 10 Molesworth Street, Dublin 2

Copy to: *[name and address of Chargor]*

We *[name of Counterparty]* acknowledge receipt of the above notice. We:

1. accept the instructions and authorisations set out in the notice and undertake to act in accordance with such instructions and authorisations; and
2. confirm that we have not received notice that the Chargor has assigned its rights under the Agreement to a third party or created any other interest (whether by way or security or otherwise) in the Agreement in favour of a third party.

Terms defined in the notice apply to this endorsement, which is governed by the laws of Northern Ireland together with any non-contractual obligations arising out of or in connection with it.

Signed:

for and on behalf of *[name of Counterparty]*

Dated: *[date]*

EXECUTION

THE CHARGOR

EXECUTED AND DELIVERED AS A DEED by
PORTGLENONE REFRIGERATION SERVICES LIMITED
acting by
director and
director/secretary



Director



Director/Secretary

PRESENT when the Common
Seal of **ALLIED IRISH BANKS, p.l.c.**
was affixed to this deed and this deed
was delivered:

Authorised Signatory

Authorised Signatory