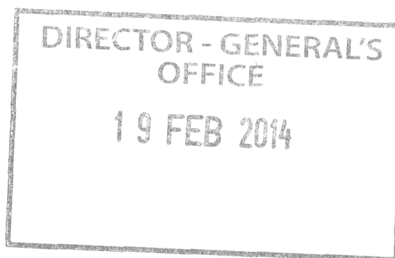




Ormonde Organics Limited
Killowen
Portlaw
Co Waterford
Ireland

T: +353 51 567 024
F: +353 51 567 005
E: mail@ormondeorganics.ie
www.ormondeorganics.ie



18 February 2014

Mr Dara Lynott
Deputy Director General
Office of Climate Licensing and Resourd
Environmental Protection Agency
PO Box 3000
Johnstown Castle Estate
Wexford

Re; Application for Waste Licence (W0-287-01) Ormonde Organics Ltd, Portlaw, County Waterford

Dear Mr Lynott

Our biological treatment operation is located on the site of the former Michell (Ireland) Ltd tannery, which opened in 1993. An IPPC licence (P0238-01) was granted to Michell (Ireland) Ltd in October 1998. The tannery ceased operation in December 2003.

In 2004 Advanced Environmental Solutions (Ireland) Ltd (AES) applied for planning permission for the change of use of the site to compost waste and treat industrial effluents. Waterford County Council refused permission and AES appealed this decision. In December 2005, An Bord Pleanala granted permission for the composting activity, but not the industrial effluent treatment. The permission allowed the acceptance of municipal sewage sludge, organic industrial sludge and household biodegradable waste.

In November 2007 we leased part of the original IPPC licensed area, comprising the processing building, administration building, yard and the wastewater treatment plant from the landowners-Messers Pat Moloughney and Philip De Vere Hunt. A copy of the lease agreement, which includes a drawing showing the leased area is enclosed.

At the time it was our understanding that the IPPC licence area had been amended to carve out these areas and that the IPPC licence, which was now in the name of Messers Moloughney and De Vere Hunt, only applied to lands north of the wastewater treatment plant, where wastes had previously been buried. NAMA has acquired the assets of Messers Moloughney and De Vere Hunt and appointed a Receiver.

In 2007 we began composting operations to treat sewage sludge produced in local authority waste water treatment plants. As such it was exempt, under Section 51 of the Waste Management Acts 1996 to 2010 (Acts), from the requirement to hold either a Waste Licence or Waste Permit.

Following consultation with Waterford County Council regarding the acceptance and treatment of the non-sewage sludge wastes approved under the planning permission, we made an Article 11 Request to the

Science.
Traceability.
Experience.

Directors
Martin Morrissey
Michael Murphy

Registered Office
Killowen, Portlaw,
Co Waterford, Ireland

Company Number
403413

VAT Number
IE6423413M

For inspection purposes only.
Consent of copyright owner required for any other use.

Agency in September 2010 asking the Agency to determine if a Waste Permit was required. The submission, a copy of which is enclosed, identified the location of the facility and included the National Grid Coordinates.

The Agency confirmed that the treatment of organic sludge would require a Waste Permit and a copy of the Agency's correspondence is enclosed. We subsequently applied for and were granted a Waste Permit.

In response to a change in the approach adopted by a number of local authorities to the treatment of sewage sludge, which resulted in a reduction in the volumes accepted at the facility, we carried out a review of the organic waste market. The review identified an opportunity to expand the types of organic wastes that could be accepted at the facility.

The new waste types include sludge from industrial wastewater treatment plants operated by the food and drink manufacturing sectors in the South East (Carlow, Kilkenny, Wexford, South Tipperary and Waterford), and the other counties in Munster. In April 2011, we applied to Waterford County Council for a revised Waste Permit to allow the acceptance and treatment of the additional waste types.

In June 2011, the Council issued the revised Permit which authorised the acceptance and composting of non-hazardous industrial wastewater treatment sludge and other organic waste residues, however the Council stipulated that planning permission must be obtained for these wastes before they could be accepted at the facility. We subsequently were granted planning permission.

The biological treatment of food wastes requires approval from the Department of Agriculture Fisheries and Food under the Animal By-Product Regulation and we applied to the Department for approval. Based on discussions with the Department officials we expect approval will be granted later this month.

While the compost process can produce a high quality end product, it cannot take advantage of the energy generating potential of organic wastes. The anaerobic digestion of organic wastes, which results in the generation of a biogas that can be used as a fuel in a combined heat and power plant, does allow the energy potential of the waste to be utilised.

The electricity generated from the gas produced by the anaerobic digestion process can either be used on-site, or sold to the national grid. The heat can also either be used on site or sold to nearby commercial/industrial users. This would be of significant economic benefit to us and help secure the future of the business. The digestate and solid residue (fibre) from the digestion process can either be incorporated into the compost process, or applied directly to land.

Therefore we applied for planning permission to construct an anaerobic digestion plant to treat 20,000 tonnes per annum of organic waste, with an associated combined heat and power plant. While the development costs would be very significant, we believed that the combination of composting and anaerobic digestion would give us the flexibility to meet future changes in the market demand for a high quality compost while complying with regulatory requirements on compliance with the Waste Hierarchy and reducing the use of non-renewable energy sources.

For inspection purposes only.
Consent of copyright owner required for any other use.

Planning permission was granted in April 2012. As the plant, when operating at maximum capacity, would treat more than 10,000 tonnes of organic waste annually, a Waste Licence was required. In September 2012, following a pre-application consultation with the Office of Climate, Licensing and Resource (OCLR) on 11th May 2012 we submitted an application for a Waste Licence.

The application stated that *'the existing facility occupies the site and buildings of the former Michell Ireland tannery, which closed in 2003.'* In the Chapter 3 of the EIS that addressed alternative locations, the capacity to convert the tannery waste water treatment plant tanks to store liquid wastes and digestate was identified as a positive aspect of the site.

In March 2013, pending a decision on the application by the Agency, we applied for a new Waste Permit to allow us proceed with the staged construction and commissioning of the anaerobic digestion plant. This was to ensure that when a Final Decision was made we would be ready to market our new service capability.

The Waste Permit was granted on 20th May 2013 and construction of Stage 1, which involved the installation of a digestion vessel and ancillaries and the refurbishment of a number of the existing storage tanks in the former tannery wastewater treatment plant, was completed and the plant commissioned in September 2013.

On 15th November 2013 the Agency issued confirmation that the Waste Licence application complied with Articles 12, 13 and 16 of the Waste Management Applications. Based on discussions between OCLR staff and O'Callaghan Moran & Associates (OCM), who are our agents on the licence application, we understood that a Proposed Decision on the application could issue before Christmas.

However, the OCLR subsequently informed OCM that the IPPC licence (P0238-01) applied to the area for which we had applied for a licence and that a Waste Licence could not be granted for a site which was the subject of an IPPC licence. We have not received any written confirmation from the OCLR on this matter.

The OCLR's statement regarding the IPPC licence preventing the Agency from making a decision on our application came a shock as we had always understood that the original IPPC licence only applied to the lands east of the wastewater treatment plant. Adding to our confusion were the facts that since we have been operating at the site in 2007 we have never been visited by the Office of Environmental Enforcement (OEE) and that the OCLR was aware, through our Article 11 submission in 2010 that we were operating at the site.

Mr De Vere Hunt has passed away and Mr Moloughney is no longer involved in the business. Our only means of contact with NAMA, who controls the lands and is effectively the IPPC licence holder, is via an auctioneer who reports to the Receiver who in turn reports to NAMA. We have not been able to determine NAMA's position on the IPPC licence.

In the absence of any effective mechanism of communicating with NAMA we carried out a review of the OEE correspondence file to see if we could get clarification on the status of the IPPC Licence. A letter dated 15th November 2011 from the OEE to RSM Farrell Grant Sparks (Your ref P0238-01/gc100ma) responds to a

For inspection purposes only.
Consent of copyright owner required for any other use.



Ormonde Organics Limited
Killowen
Portlaw
Co Waterford
Ireland

T: +353 51 567 024
F: +353 51 567 005
E: mail@ormondeorganics.ie

www.ormondeorganics.ie

request for information on the contamination issue at the Portlaw Site. The letter states that when the tannery was operational animal fleshings were buried in a trench behind the tank farm. This is the only contamination issue referred to in the letter

The letter states that Ormonde Organics are leasing the site and that the licence for the former tannery needs to be closed out and surrendered appropriately. The OEE instructed the licensee to immediately excavate and remove the waste, install groundwater monitoring wells and prepare an Environmental Risk assessment and Residuals Management Plan. As far as we know these works have not been carried out.

If we had known that the IPPC licence still applied to our leasehold, we would not have submitted the Waste Licence application and certainly would not have constructed Stage 1 of the anaerobic digestion plant.

As it stands, after spending €4.5 million on the licence application and the construction of stage 1 of the anaerobic digestion plant we now understand that the Agency cannot grant us a Waste Licence. As the commercial viability of the anaerobic digestion plant is based on processing 20,000 tonnes/year of industrial organic sludge, which requires a Waste Licence, our investment and our business itself is very much at risk unless an alternative way of obtaining approval is found.

We understand the Agency's concerns in general regarding the surrender of licences in the context of outstanding environmental liabilities that may be present at IPPC and Waste Licensed sites. We also understand the Agency's particular concerns about the part of the Michell Ireland Ltd IPPC licensed area where wastes were buried. However, this area is not included in our lease agreement, we do not have control over it and it is not within our proposed Waste Licensed boundary. Any concerns the Agency may have over any potential environmental liabilities associated with the tannery operations that were carried out within our leasehold can be addressed by means of the conditions in the Waste Licence.

We request the Agency to consider amending the IPPC licence to change the boundary of the licensed area so as to exclude our leasehold. This would allow the Agency to proceed with the Proposed Decision on our Waste Licence application and separately close out the contamination issue with the IPPC licence holder.

Our sole interest is in obtaining the Waste Licence so that we can develop a sustainable business and we therefore request, as a matter of urgency, a meeting with you as soon as possible to discuss how this can be achieved.

Yours Sincerely,

Michael Murphy
Ormonde Organics Limited

cc Mr Gerard O'Leary; Director of Office of Environmental Enforcement

Science.
Traceability.
Experience.

Directors
Martin Morrissey
Michael Murphy

Registered Office
Killowen, Portlaw,
Co Waterford, Ireland

Company Number
403413

VAT Number
IE6423413M

For inspection purposes only.
Consent of copyright owner required for any other use.

- (1) Landlord: **Pat Moloughney and Philip De Vere Hunt t/a BPD Capital, Suite 2, 89-90 Main Street, Cashel, Co. Tipperary.**
- (2) Tenant: **Ormonde Organics Limited having its registered office at Ballinalacken, Attanagh, Co. Laois.**
- (3) Guarantor: **Martin Morrissey Bishops Hill, Kilkenny**

LEASE

- of -

Warehouse Industrial Office Building incorporating car park yards, farm, tank etc., plus additional lands which may be required for the operation of an AD facility as outlined in red on the map attached hereto.

Term: 20 years from 1st of November 2007

Rent Reviews: first day of year 4, first day of year 6 and every five years thereafter.

Initial Rent: €12,000.00 per month or €144,000.00 per annum exclusive (subject to review)

CONTENTS

PARTIES

1. Definitions
2. Interpretation
3. Demise and Rents
4. Tenant's Covenants
 - 4.1 Rents
 - 4.2 Interest on arrears
 - 4.3 Outgoings
 - 4.4 Repairs
 - 4.5 Decorations
 - 4.6 Cleaning and maintenance
 - 4.7 Yielding Up
 - 4.8 Tenant's fixtures and effects
 - 4.9 Common facilities
 - 4.10 Rights of entry by Landlord

For inspection purposes only.
Consent of copyright owner required for any other use.

- 4.11 Compliance with Notices
- 4.12 Operation of the Demised Premises
- 4.13 User
- 4.14 Alterations
- 4.15 Alienation
- 4.16 Registration of dispositions
- 4.17 Landlord's expenses
- 4.18 Statutory requirements
- 4.19 Encroachments and easements
- 4.20 Reletting and planning application notices
- 4.21 Indemnity
- 4.22 Stamp duty and Value Added Tax
- 4.23 Insurance
- 4.24 Registration of Company
- 4.25 Non objection to Planning permission
- 5. Landlord's Covenants
 - 5.1 Quiet enjoyment
 - 5.2 Exercise of rights
- 6. Provisos
 - 6.1 Forfeiture
 - 6.2 No implied easements
 - 6.3 Exclusion of warranty as to user
 - 6.4 Representations
 - 6.5 Covenants relating to Adjoining Property
 - 6.6 Effect of waiver
 - 6.7 Applicable law
 - 6.8 Notices
 - 6.9 Termination by Tenant

For inspection purposes only.
Consent of copyright owner required for any other use.

7. Guarantor's Covenants

- 7.1 Covenant and indemnity
- 7.2 Joint and several liability
- 7.3 Waiver
- 7.4 Postponement of claims
- 7.5 Postponement of participation
- 7.6 Release
- 7.7 Disclaimer or forfeiture
- 7.8 Benefit of guarantee
- 7.9 Jurisdiction
- 7.10 Registration of company

8. Revenue Certificates

9. Assent

First Schedule (Demised Premises)

Second Schedule (Ancillary Rights)

Third Schedule (Exceptions and Reservations)

Fourth Schedule (Rent Reviews)

Execution Clauses

For inspection purposes only.
Consent of copyright owner required for any other use.

THIS LEASE made the 20 day of November 2011 BETWEEN

(a) **LANDLORD:** Pat Moloughney and Philip De Vere Hunt
1/a BPD Capital, 2nd Floor, 89-90 Main Street, Cashel, Co. Tipperary.

(b) **TENANT:** Ormonde Organics Ltd.
having its registered office at Ballinalacken, Attanagh, Co. Laois.

(c) **Guarantor:** Martin Morrissey Bishops Hill, Kilkenny

WITNESSETH as follows:

1. **DEFINITIONS**

In this Lease, unless the context otherwise requires,

- 1.1 "Adjoining Property" means any land and buildings adjoining or neighbouring the Demised Premises;
- 1.2 "Building Control Act" means the Building Control Act 1990;
- 1.3 "Conduits" means all sewers, drains, soakways, pipes, gullies, gutters, ducts, mains, watercourses, channels, subways, wires, cables, shafts, flues and other transmission or conducting media and installations (including all fixings, covers, cowls, louvres and other ancillary apparatus) of whatsoever nature or kind or any of them;
- 1.4 "Decorate" means paint (with at least two coats of good quality paint), polish, repaper or otherwise treat as appropriate all surfaces usually or requiring to be so treated and includes preparation of such surfaces by stripping off, stopping, priming or otherwise, as necessary, washing down washable surfaces, treatment with suitable preservative and restoration, pointing and making good stonework, brickwork, stucco, concrete and other surfaces;
- 1.5 "Demised Premises" means, save as provided in clause 5.3.7, the premises demised by this Lease and more particularly described in the First Schedule;
- 1.6 "External Decoration Year" means the year ending November 2012 and thereafter in every subsequent fifth year of the Term;
- 1.7 "Guarantor" means the party or parties named as "Guarantor" at the commencement of this Lease and includes the successors in title of the Guarantor and, in the case of an individual, includes his personal representatives;
- 1.8 "Initial Rent" means €144,000.00 per annum
- 1.9 "Insured Risks" means, subject always to such insurance as may ordinarily and reasonably be available to the Tenant and to such exclusions, excesses and limitations, as are normally available as may be imposed by the Tenant's insurers for the time being in respect of any or all of the following risks:

fire (including subterranean fire), storm, tempest, flood, earthquake, lightning, explosion, impact by any road vehicle, aircraft and other aerial devices and articles dropped therefrom, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks as the Landlord

0800172173

30/01/08-PM-EURT.1452.50

- 3.1 Yearly and proportionately for any fraction of a year the Initial Rent and, from and including each Review Date (as defined in the Fourth Schedule), such yearly rent as becomes payable under the Fourth Schedule, and in every case the same is to be paid in the manner notified from time to time by the Landlord by equal monthly payments in advance on the monthly date directly to the Landlord's account :

Patrick Moloughney & Philip De Vere Hunt T/A Bank Place Developments, Bank of Ireland Main St, Tipperary Town, Sort Code 90 61 01 Account Number 20579427

- 3.2 Any other sum recoverable by the Landlord as costs or expenses under this Lease, the same to be paid on demand.

4. TENANT'S COVENANTS

The Tenant throughout the Term **HEREBY COVENANTS** with the Landlord as follows:

4.1 Rents

To pay the rents in the manner specified in clause 3 (save for the first payments which shall be made on the execution of this Lease) and without any deduction, set-off or counterclaim whatsoever.

4.2 Interest on arrears

Without prejudice to any other right, remedy or power herein contained or otherwise available to the Landlord, if any of the rents (whether formally demanded or not) or other sums specified in clause 3 remain unpaid for more than fourteen days after the date when payment was due, to pay interest thereon at the Prescribed Rate from and including the date on which payment was due to the date of payment to the Landlord (both before and after any judgment).

4.3 Outgoings

To pay and indemnify the Landlord against all Outgoings.

4.4 Repairs

4.4.1 To repair the Demised Premises and keep them in good repair and, as often as may be necessary, to rebuild, reinstate or replace the Demised Premises

4.4.2 To maintain, repair and keep in good working order and condition and, as often as may be necessary, to renew and replace by articles of a similar kind and quality all Plant and Conduits in, upon, over or under the Demised Premises and to repair any damage caused to the Demised Premises by the breakdown, misuse of, or failure to repair such Plant and Conduits and to indemnify the Landlord against any loss or liability resulting therefrom;

Provided that the Tenant is not obliged to put the Demised Premises in to any better state of order, repair or condition that exists at the Term Commencement Date and the Tenant shall not be liable to repair, maintain or reinstate any damage arising due to a latent or inherent defect in any buildings on the Demises Premises and Provided that the 4.5 Decorations

To Decorate in a good and workmanlike manner, using good quality materials—

4.5.1 in every External Decoration Year and also during the last six months of the Term (whether determined by effluxion of time or otherwise) all exterior parts of the Demised Premises requiring decoration in colours to be approved in writing by the Landlord (such approval not to be unreasonably withheld), and

4.5.2 in every Internal Decoration Year and also during the last three months of the Term (whether determined by effluxion of time or otherwise) all interior parts of the Demised Premises requiring decoration and, during the said last three months, in such colours as the Landlord may reasonably require in writing.

4.6 Cleaning and maintenance

4.6.1 To keep all parts of the Demised Premises clean and tidy;

4.6.2 To keep those parts which are not built upon properly surfaced and free from weeds;

4.6.3 To keep all landscaped areas properly cultivated and maintained, preserving any trees and shrubs in those areas;

4.6.4 To clean properly at least once in every month all windows and window frames and all other glass forming part of the Demised Premises.

4.7 Yielding up

At the expiration or sooner determination of the Term to yield up the Demised Premises having—

4.7.1 complied with all the Tenant's covenants contained in this Lease, and

4.7.2 removed any moulding, sign, writing or painting of the name or business of the Tenant or occupiers, and

4.7.3 if so required by the Landlord, but not otherwise, removed all alterations or additions made to the Demised Premises by the Tenant,

together with any Tenant's fixtures, fittings, furniture and effects, and restored the Demised Premises to their original prevailing condition.

4.8 Tenant's fixtures and effects

4.8.1 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of (subject to any conditions which the Landlord thinks fit) any fixtures, fittings, furniture and effects left by the Tenant on the Demised Premises for more than seven days after the expiry or sooner determination of the Term;

4.8.2 In acting under clause 4.8.1 the Landlord is not liable to the Tenant save having to account for the net proceeds of sale less the cost of storage (if any) and any other expenses reasonably incurred by the Landlord.

4.9 Common facilities

To pay on demand to the Landlord such proportion (to be fairly and properly determined by the Landlord) of any expenses (except to the extent they are recovered by the Landlord under insurance) properly incurred by the Landlord in repairing, maintaining, decorating, cleansing and lighting, as the case may be, those parts of the Adjoining Property in respect of which the Tenant has the ancillary rights and easements specified in the Second Schedule.

4.10 Rights of entry by Landlord

To permit the Landlord with all necessary materials and appliances at all reasonable times upon reasonable prior notice (except in cases of emergency) to enter and remain upon the Demised Premises for any of the following purposes:

4.10.1 to view and examine the state and condition of the Demised Premises and to take schedules or inventories of the Landlord's fixtures and fittings;

4.10.2 to exercise any of the rights excepted and reserved by, and to carry out any obligations arising under, this Lease;

4.10.3 for any other purpose connected with the interest of the Landlord in the Demised Premises, including, but not limited to, valuing or disposing of the said interest.

For inspection purposes only.
Consent of copyright owner required for any other use.

may in its absolute discretion from time to time determine and request the Tenant to insure;

- 1.10 "Internal Decoration Year" means the year ending November 2012 and thereafter in every subsequent fifth year of the Term;
- 1.11 "Landlord" means the party or parties named as "Landlord" at the commencement of this Lease and includes the person for the time being entitled to the reversion immediately expectant on the determination of the Term;
- 1.12 "this Lease" includes the Schedules and any document which is made supplemental hereto or which is entered into pursuant to or in accordance with the terms hereof;
- 1.13 "Outgoings" means all rates, taxes and charges (including emergency service charges) of any description (whether or not of a capital or non-recurring nature) which may at any time during the Term be payable in respect of the Demised Premises and the Utilities enjoyed in connection therewith **INCLUDING** any insurance excesses or other sums not recoverable by the Landlord (unless due to its neglect or default) but **EXCLUDING** any tax payable by the Landlord upon the rents herein reserved or occasioned by any disposition of or dealing with the reversion on this Lease
- 1.14 "Permitted User" means domestic and commercial waste, anaerobic digestion and contaminated soils and waste to energy facilities, including the acceptance of slaughterhouse waste, and municipal wastewater treatment plant's sludge.
- 1.15 "the Perpetuity Period" means the period of 20 years from the date of this Lease;
- 1.16 "Plan" means the plan (if any) annexed to this Lease;
- 1.17 "Planning Acts" means the Local Government (Planning and Development) Acts 1963 to 1993;
- 1.18 "Plant" means any lifts, lift machinery, central heating and air conditioning systems, sprinkler system, boilers and other electrical and mechanical machinery, equipment and apparatus of whatsoever nature or kind and wherever installed in the Demised Premises.
- 1.19 "Prescribed Rate" means the rate per centum per month which exceeds by one half per centum per month the monthly rate of interest for the time being chargeable under Section 550 of the Income Tax Act 1967 (or such other monthly rate of interest as may from time to time be chargeable upon arrears of income tax) or, as the Landlord may from time to time elect, the rate of 12% per centum per annum;
- 1.20 "Monthly Gale Days" means the first day of each month commencing 1st of November 2007 and monthly thereafter on the first day of each month every month of every year of the term.
- 1.21 "Rent Commencement Date" means the 1st of November 2007
- 1.22 "Tenant" means the party or parties named as "Tenant" at the commencement of this Lease and includes the person entitled for the time being to the Tenant's interest created by this Lease;
- 1.23 "Term" means 20 Years
- 1.24 "Term Commencement Date" means the 1st November 2007
- 1.25 "Utilities" means water, soil, steam, air, gas, water wells, electricity, electricity substation, sewerage and surface water treatment plants, radio, television, telegraphic, telephonic and other communications, and other services of whatsoever nature;

- 1.26 "the 1860 Act" and "the 1881 Act" mean respectively the Landlord and Tenant Law Amendment Act, Ireland, 1860 and the Conveyancing Act, 1881.

2. INTERPRETATION

- 2.1 Where two or more persons are included in the expression "the Landlord" or "the Tenant", such expressions include all or either or any of such persons and the covenants which are expressed to be made by the Landlord or the Tenant shall be deemed to be made by or with such persons jointly and severally.
- 2.2 Unless the context otherwise requires—
- 2.2.1 words importing a person include any unincorporated association or corporate body and vice versa;
- 2.2.2 any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders;
- 2.2.3 any reference to the singular includes reference to the plural.
- 2.3 Any covenant by the Tenant not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.
- 2.4 References to any right of the Landlord to have access to or entry upon the Demised Premises shall be construed as extending to all persons authorised by the Landlord, including agents, professional advisers, prospective purchasers of any interest of the Landlord in the Demised Premises or in the Adjoining Property, contractors, workmen and others.
- 2.5 Any reference to a statute (whether specifically named or not) or to any sections or sub-sections therein includes any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans for the time being made, issued or given thereunder or deriving validity therefrom.
- 2.6 Headings are inserted for convenience only and do not affect the construction or interpretation of this Lease.
- 2.7 Any reference to a clause, sub-clause or schedule means a clause, sub-clause or schedule of this Lease.
- 2.8 Wherever in this Lease either party is granted a future interest in property there shall be deemed to be included in respect of every such grant a provision requiring that future interest to vest within the Perpetuity Period.
- 2.9 If any term or provision in this Lease is held to be illegal or unenforceable in whole or in part, such term shall be deemed not to form part of this Lease but the enforceability of the remainder of this Lease is not affected.

3. DEMISE AND RENTS

THE Landlord in consideration of the rents herein reserved (including the increases thereof which may arise as hereinafter provided) and the covenants on the part of the Tenant hereinafter contained **HEREBY DEMISES** unto the Tenant the Demised Premises **TOGETHER WITH** the ancillary rights and easements specified in the Second Schedule but **EXCEPTING AND RESERVING** the rights and easements specified in the Third Schedule **TO HOLD** the Demised Premises unto the Tenant from and including the Term Commencement Date for the Term **SUBJECT TO** all rights, easements, privileges, covenants, restrictions and stipulations of whatsoever nature affecting the Demised Premises **YIELDING AND PAYING** unto the Landlord during the Term:

4.11 Compliance with notices

Upon written notice being given by the Landlord to the Tenant of any breach of covenant—

4.11.1 to make good and remedy within sixty days of such notice, or sooner if required in the notice, the breach to the reasonable satisfaction of the Landlord;

4.11.2 if the Tenant fails within twenty-one days of such notice, or as soon as reasonably possible in the case of an emergency, to commence and then diligently and expeditiously to continue to comply with such notice, to permit the Landlord to enter the Demised Premises and carry out all or any of the works or other steps necessary for compliance with the notice;

4.11.3 to pay all costs and expenses thereby incurred to the Landlord on demand.

4.12 Operation of the Demised Premises

4.12.1 Not to engage in any activity in or on the Demised Premises which may result in—

4.12.1.1 a material increase in the risk of one or more of the Insured Risks happening or of contamination, pollution, or overloading in, on or to the Demised Premises;

4.12.1.2 the creation of any nuisance, annoyance or disturbance affecting the enjoyment of the Adjoining Property or the value or character of the Demised Premises;

4.12.1.3 the obstruction of or interference with the ancillary rights specified in the Second Schedule or with the rights of owners and occupiers of the Adjoining Property;

4.12.1.4 the interference with or malfunctioning of any fire and safety equipment or appliances installed in the Demised Premises;

4.12.1.5 the Landlord incurring liability or expense under any statutory provision;

4.12.2 Not to erect, place or display on the exterior or on the windows of the Demised Premises any sign or other item whatsoever without obtaining the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

4.13 User

4.13.1 Not without the prior written consent of the Landlord (which consent shall not be unreasonably withheld) to use the Demised Premises except for the Permitted User nor to make any application for planning permission or a fire and safety certificate in regard to any change of user or other development relating to the Demised Premises without first giving notice in writing to the Landlord of the intention to make such application;

4.13.2 Not to leave the Demised Premises continuously unoccupied (other than for normal holiday periods) without notifying the Landlord;

4.13.3 To provide such caretaking or security arrangements as the Landlord or the insurers of the Demised Premises shall reasonably require in order to protect the Demised Premises from vandalism, theft or unlawful occupation;

4.13.4 To provide the Landlord with the name, address and home telephone number of at least two authorised key holders for the time being of the Demised Premises and to notify the Landlord of any changes in the persons so authorised as keyholders of the Demised Premises;

4.13.5 Not to use the Demised Premises for any public or political meeting, public exhibition or public entertainment, show or spectacle of any kind, nor for any dangerous, noisy, noxious or offensive trade, business or occupation whatsoever, nor for any illegal or immoral purpose, nor for residential or sleeping purposes;

4.13.6 Not to use the Demised Premises or any part thereof for gambling, betting, gaming or wagering, or as a betting office, or as a club, or for the sale of beer, wines and spirits, nor to hold any auction on the Demised Premises.

4.14 Alterations

4.14.1 Not to erect any new building or structure or to engage in any works on, or to make any addition or alteration to, the Demised Premises of such a kind that the Demised Premises lose their original identity;

4.14.2 Not to make any other addition or alteration to the Demised Premises without the prior written consent of the Landlord (which consent shall not be unreasonably withheld);

4.14.3 The Landlord may, as a condition of giving consent under the immediately preceding sub-clause, require the Tenant to enter into covenants or undertakings as to the carrying out and insurance of the additions or alterations to the Demised Premises and as to their reinstatement to their original state at the expiration or sooner determination of the Term;

4.14.4 In respect of such additions or alterations, to comply in all respects with the provisions, as appropriate, of the Planning Acts and the Building Control Act and to carry out any related works in a good and workmanlike manner to the satisfaction of the Landlord.

4.15 Alienation

4.15.1 Not to assign, sub-let, part with or share possession, other than to an associated company or a company which comprises a member of the Tenant's Group Company, of the entirety of the Demised Premises without the prior written consent of the Landlord (which consent shall not be unreasonably withheld);

4.15.2 Not under any circumstances to assign, sub-let, part with or share possession of or otherwise alienate a part of the Demised Premises;

4.15.3 The Tenant in seeking consent to any proposed alienation shall apply in writing to the Landlord and shall provide all information concerning the alienation as the Landlord may reasonably require;

4.15.4 In granting consent to any such proposed alienation the Landlord may impose such conditions as are reasonable in all the circumstances.

4.16 Registration of dispositions

To furnish to the Landlord or its solicitors within twenty-one days of the alienation a certified copy of the deed or other instrument evidencing or effecting any alienation of or relating to the Demised Premises.

4.17 Landlord's expenses

To pay and indemnify the Landlord against all reasonable costs and expenses properly incurred by the Landlord in relation to:

4.17.1 the preparation and service of any notice and of any proceedings under the 1860 Act or the 1881 Act;

4.17.2 the preparation and service of any notice and schedule relating to disrepair;

- 4.17.3 the recovery or attempted recovery of arrears of rent or other sums payable under this Lease;
- 4.17.4 procuring the remedying of any breach of covenant by the Tenant;
- 4.17.5 any application for consent required under the terms of this Lease (whether such consent is granted or not);

4.18 Statutory requirements

4.18.1 At the Tenant's own expense, to comply in all respects in relation to the Demised Premises with—

4.18.1.1 all obligations and requirements arising from or under any statutory provision or imposed under powers conferred on any authority or court of competent jurisdiction;

4.18.1.2 any reasonable demand by the Landlord for production of plans, documents and other evidence which the Landlord may require in order to satisfy itself that the provisions of this clause have been or will be complied with.

4.18.2 Upon receipt of any notice or order relating to the Demised Premises or the occupier thereof or of any proposal for the same served or given under the Planning Acts, the Building Control Act or any other statutory provisions, forthwith—

4.18.2.1 to furnish the Landlord with a true copy thereof and any further particulars required by the Landlord;

4.18.2.2 to take all necessary steps to comply with the notice or order;

4.18.2.3 at the written request of the Landlord but at the cost of the Tenant, to make or join with the Landlord in making such objection or representation against or in respect of any such notice, order or proposal as the Landlord may reasonably require.

4.18.3 The Tenant shall be obliged to comply with any statutory notices served under the Environmental Acts or by any authority such as, but not limited to, the Environmental Protection Agency in relation to any work, action or otherwise undertaken by the Tenant in occupation of the property and that the Tenant shall be obliged to comply with all such notices and be responsible for the adherence and taking the necessary steps to ensure compliance with the said notice

PROVIDED THAT the Tenant shall only be obliged to comply with any statutory notices served under the Planning Acts, or Building Control Act in relation to work done by the Tenant since the date of first taking possession of the property and that the Tenant shall not be liable for the costs of rectifying any breaches of the Planning Acts or Building Control Act, in relation to the failure by the Landlord or its predecessors in title to complete work to the Buildings.

4.19 Encroachments and easements

4.19.1 Not to stop up, darken or obstruct any window, rights of light or rights of ways belonging to the Demised Premises;

4.19.2 Not to permit any new easement, encroachment, or any other third party rights to be made or enjoyed over or in respect of the Demised Premises or to acknowledge their existence or to grant any such rights;

4.19.3 As soon as the Tenant is aware of any attempt to claim or exercise such third party rights, forthwith to give written notice thereof to the Landlord and, at the

request of the Landlord, to take such steps as may be reasonably required by the Landlord to prevent their acquisition or otherwise deal with them.

4.20 Reletting and planning application notices

To permit the Landlord at all reasonable times during the last six months of the Term to enter upon the Demised Premises and affix and retain without interference upon any suitable parts of the Demised Premises (but not so as materially to affect the access of light and air to the Demised Premises) notices of reletting the same and, as appropriate, any site notice relating to a planning application and to permit all persons with the written authority of the Landlord or its agent to view the Demised Premises at all reasonable hours in the daytime, upon prior notice having been given.

4.21 Indemnity

4.21.1 To keep the Landlord fully indemnified from and against all actions, proceedings, claims, demands, losses, costs, expenses, damages and liability arising directly or indirectly from—

4.21.1.1 breach by the Tenant of any of the provisions of this Lease;

4.21.1.2 the use of or works carried out on or to the Demised Premises during the Term;

4.21.1.3 any act, neglect or default by the Tenant or any person on the Demised Premises with its actual or implied authority.

4.21.2 To effect and keep in force such public liability, employer's liability and other policies of insurance (to the extent that such insurance cover is available) as may be necessary to cover the Tenant against any claim arising under the preceding sub-clause and to extend such policy or policies so that the Landlord is indemnified by the insurers in the same manner as the Tenant.

4.21.3 Whenever required to do so by the Landlord, to produce to the Landlord the said policy or policies together with satisfactory evidence that the same is/are valid and subsisting and that all premiums due thereon have been paid.

4.22 Stamp Duty and Value Added Tax

To pay to the Landlord—

4.22.1 any stamp duty payable on this Lease and its counterpart together with registration fees;

4.22.2 any Value Added Tax arising from the grant of this Lease or on the rents reserved by it.

4.23 Insurance

To insure and keep insured with an insurer of repute located in Ireland in the name of the Tenant with the Landlord's interest and that of the Landlord's financial institution noted thereon —

4.23.1.1 the Demised Premises against loss or damage by the Insured Risks in the full reinstatement costs thereof (to be determined from time to time by the Landlord or his professional adviser) including:

(i) Architects, Surveyors, Consultants and other professional fees (including Value Added Tax thereon);

(ii) the costs of shoring up, demolishing, site clearing and similar expense;

(iii) all stamp duty and other taxes or duties exigible on any building or like contract as may be entered into and all incidental expenses (including planning and building regulation fees) relative to the reconstruction, reinstatement or repair of the Demised Premises;

(iv) such provision for inflation as the Landlord in its absolute discretion shall deem appropriate;

4.23.1.2 the loss of rent from time to time payable, or reasonably estimated to be payable, under this Lease (taking account of any review of the rent which may become due under this Lease) following loss or damage to the Demised Premises by the Insured Risks, for three years or such longer period as the Landlord may, from time to time, reasonably deem to be necessary, having regard to the likely period required for rebuilding and for obtaining planning permission and any other consents, certificates and approvals in connection with the reinstatement of the Demised Premises;

4.23.1.3 the property owner's, public, employer's and other liability of the Landlord arising out of or in relation to the Demised Premises;

4.23.1.4 such other insurances as the Landlord from time to time deem necessary to effect and direct the Tenant accordingly.

4.23.2 At the request of the Landlord, the Tenant shall produce to the Landlord a copy or extract duly certified by the Tenant of such insurance policy or policies and a copy of the receipt or the last premium or (at the Landlord's option) reasonable evidence from the insurers of the terms of the insurance policy or policies and the fact that it is or they are subsisting and in effect;

4.23.3 If the Demised Premises are destroyed or damaged by any of the Insured Risks then:

4.23.3.1 unless payment of any of the insurance moneys is refused by reason of any act or default of the Tenant, any under-tenant or any person under its or their control; and

4.23.3.2 subject to the Landlord being able to obtain any necessary planning permission and other necessary licences, certificates, approvals and consents (which the Landlord shall use its reasonable endeavours to obtain); and

4.23.3.3 subject to the necessary labour and materials being and remaining available (which the Landlord shall use its reasonable endeavours to obtain as soon as practicable); and

4.23.3.4 subject to exercise of the right to terminate the Lease under this clause;

the Tenant shall as soon as receiving the proceeds of the insurance, lay out the proceeds of insurance effected under clause 4.23.1.1 to the Landlord to allow the rebuilding and reinstating the Demised Premises as necessary to make them substantially the same as they were prior to the destruction or damage (but not so as to provide accommodation identical in layout and manner or method of construction if it would not be reasonably practical to do so);

4.23.4 If the Landlord is prevented (for any reason other than its act or default) from compliance with the previous provisions of this clause the following provisions apply:

- 4.23.4.1 the Landlord is relieved of its obligations and is solely entitled to all insurance moneys due to be paid by the Tenant;
- 4.23.4.2 if the prevention continues for three years and the Lease is not otherwise terminated, the Landlord or the Tenant may at any time after expiry of that period by not less than three months' written notice given to the other party determine this Lease, but without prejudice to any claim by either party against the other in respect of any antecedent breach of its terms;
- 4.23.5 If the destruction or damage to the Demised Premises renders them unfit for use and occupation and provided the insurance has not been vitiated nor payment of any insurance moneys refused by reason of any act or default of the Tenant, any undertenant or any person under its or their control, the rent payable under clause 3.1 of this Lease shall be suspended in accordance with the following provisions:
- 4.23.5.1 the rent suspended shall be the whole rent or such proportion as is fair according to the nature and extent of the damage to the Demised Premises;
- 4.23.5.2 the suspension shall last until either the Demised Premises are again rendered fit for use and occupation or the expiration of three years (or such longer period as the Landlord may have insured against) from the date of destruction or damage, whichever is the earlier;
- 4.23.5.3 where the destruction or damage occurs during a quarter in respect of which rent has been paid in advance, the Landlord shall refund to the Tenant the proportion of that rent (apportioned on a daily basis) which is attributable to the period following the date of destruction or damage;
- 4.23.5.4 any dispute regarding suspension of rent shall be conclusively determined by a single arbitrator to be appointed, in default of agreement, upon the application of either party, by or on behalf of the President or acting President for the time being of the Society of Chartered Surveyors in accordance with the provisions of the Arbitration Acts, 1954-1980.
- 4.23.6As and when requested from time to time by the Tenant, the Landlord shall use its reasonable endeavours:
- 4.23.6.1 to ensure that the insurance policy or policies in respect of the Insured Risks contain a provision that the insurance is not invalidated by any change of occupancy or increase or risk taking place in or on the Demised Premises without the knowledge of the Landlord provided that the Tenant shall immediately upon the same coming to its knowledge give notice to the insurers and the Tenant shall pay any additional premiums as may be required from the date of such increase of risk.
- 4.23.7For the purposes of this clause "Demised Premises" do not include (unless otherwise specified by the Landlord) any additions, alterations or improvements carried out or being carried out by the Tenant.
- 4.23.8Not to do or omit to do anything which might cause any policy of insurance relating to the Demised Premises or any Adjoining Property owned by the Landlord to become void or voidable wholly or in part nor (unless the Tenant has previously notified the Landlord and agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable.

4.23.9 If so requested by the Landlord, to insure and keep insured in the joint names of the Landlord and the Tenant any glass forming part of the Demised Premises against breakage (other than as a result of the Insured Risks) for a sum which is not less than the full replacement value thereof for the time being with such insurance company as may from time to time be approved by the Landlord;

4.24 Registration of Company

To comply with all statutory requirements necessary to ensure that the Tenant remains on the register of companies.

4.25 Non Objection to Planning permission

4.25.1 PROVIDED THAT any future application which the Landlord may make to the relevant Planning Authority in respect of the Adjoining Property does not adversely impact on the Tenant's operation and permitted use of the Demised Premises then Tenant shall not:

- (a) make or procure or assist in the making of any objection to any application by the Landlord which may be lodged with the relevant Planning Authority for any new or revised Planning Permission to develop the Adjoining Property or any part thereof.
- (b) lodge or procure assist in the lodging of any objection or appeal with An Bord Pleanala against any decision which the relevant Planning Authority shall grant in respect of the Adjoining Property or any part thereof or against any conditions attaching to any such decision.
- (c) make or procure or assist in making any submission or other communication whether oral or in writing to the relevant Planning Authority, or to An Bord Pleanala on appeal in relation to any such application by the Landlord for Planning Permission in relation to the development of the Adjoining property or any part thereof.

5. LANDLORD'S COVENANTS

The Landlord HEREBY COVENANTS with the Tenant as follows:

5.1 Quiet enjoyment

To permit the Tenant, provided he pays the rent reserved by and otherwise complies with the provisions of this Lease, peaceably to hold and enjoy the Demised Premises during the Term without any interruption by the Landlord or any person lawfully claiming through, under or in trust for it.

5.2 Exercise of rights

In exercising any of the Landlord's rights of entry or other rights in relation to the Demised Premises—

5.2.1 to take all necessary steps to ensure that as little damage is done to the Demised Premises and as little inconvenience is caused to their occupiers as is reasonably practicable;

5.2.2 to make good without delay any damage which may be caused by such exercise.

6. PROVISOS

PROVIDED ALWAYS as follows:

6.1 Forfeiture

Without prejudice to any other right, remedy or power herein contained or otherwise available to the Landlord if:

6.1.1 the whole or any part of the rents or other sums reserved by this Lease is unpaid for fourteen days after becoming payable (whether formally demanded or not); or

6.1.2 there is a breach of any of the Tenant's covenants; or

6.1.3 if the Tenant (being a body corporate) has a winding-up petition presented against it or passes a winding-up resolution (other than in connection with a members' voluntary winding-up for the purposes of amalgamation or reconstruction which has the prior written approval of the Landlord) or resolves to present its own winding-up petition or is wound-up (whether in Ireland or elsewhere) or a Receiver and Manager is appointed in respect of the Demised Premises or of the Tenant; or

6.1.4 if the Tenant (being an individual, or if more than one individual, then any one of them) has a bankruptcy petition presented against him or is adjudged bankrupt (whether in Ireland or elsewhere) or suffers any distress or execution to be levied on the Demised Premises or enters into composition with his creditors or has a receiving order made against him;

THEN, and in any such case, the Landlord may at any time thereafter re-enter the Demised Premises and thereupon the Term absolutely ceases and determines, but without prejudice to any rights or remedies which may then have accrued to the Landlord against the Tenant in respect of any antecedent breach of any of the covenants or conditions contained in this Lease.

6.2 No implied easements

Nothing in this Lease shall impliedly confer upon or grant to the Tenant any easement, right or privilege other than those expressly granted (if any) by it.

6.3 Exclusion of warranty as to user

Nothing contained in this Lease or in any consent granted or approval given by the Landlord under it implies or warrants that the Demised Premises may be used under the Planning Acts or the Building Control Act for the purpose herein authorised or any purpose subsequently authorised and the Tenant hereby acknowledges that the Landlord has not given or made at any time any representation or warranty that any such use is or will be or will remain a permitted use under those Acts.

6.4 Representations

The Tenant acknowledges that this Lease has not been entered into in reliance wholly or partly on any statement or representation made by or on behalf of the Landlord, except any such statement or representation that is expressly set out in this Lease.

6.5 Covenants relating to Adjoining Property

Nothing contained in or implied by this Lease shall give to the Tenant the benefit of or the right to enforce or to prevent the release or modification of any covenant, agreement or condition entered into by any tenant of the Landlord in respect of the Adjoining Property.

6.6 Effect of waiver

Each of the Tenant's covenants shall remain in full force both at law and in equity notwithstanding that the Landlord may have appeared to have waived or released temporarily any such covenant, or waived or released temporarily or permanently, revocably or irrevocably a similar covenant affecting other property belonging to the Landlord.

6.7 Applicable Law

This Lease and all relationships created thereby shall in all respects be governed by and construed and interpreted in accordance with Irish Law.

6.8 Notices

6.8.1 Any demand or notice required to be made, given to, or served on the Tenant under this Lease is duly and validly made, given or served if addressed to the Tenant (or, if the Tenant comprises more than one person, then to any of them) and delivered personally, or sent by prepaid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed (in the case of a company) to its registered office or (whether a company or individual) to its last known address, or to the Demised Premises;

6.8.2 Any notice required to be given or served on the Landlord is duly and validly given or served if sent by pre-paid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed to the Landlord at its registered office.

6.9 Termination by Tenant

The Tenant may terminate this Lease as of the expiration of the 5th year or 10th year strictly subject to the following terms and conditions:

6.9.1 The Tenant shall serve on the Landlord a notice in writing exercising the said right ("the Notice") at least 6 months prior to the expiry of the Option Date (but in any event not prior to the expiry of the 4th year of the Term) and in this regard time shall be of the essence.

6.9.2 The Tenant shall also send with the Notice a bank draft payable to the Landlord for a sum equivalent to the aggregate of 6 months' of the rent then payable under this Lease and 6 months Outgoings payable by the Tenant under this Lease.

6.9.3 Notwithstanding the payment made pursuant to clause 6.9.2 the Tenant shall continue to be responsible for rent and all Outgoings payable on foot of this Lease up to the Option Date.

6.9.4 The Tenant shall on or prior to the Option Date deliver to the Landlord the original of this Lease, together with all related title documentation (including a release or discharge of all mortgages, charges and other incumbrances, whether registered or not), and shall as beneficial owner deliver duly executed and stamped a transfer or surrender of this lease and (if applicable) shall procure the cancellation of its registration in the Land Registry.

6.9.5 Any such termination shall be without prejudice to any antecedent breach by either the Landlord or Tenant of any of their respective covenants herein contained.

6.9.6 In the event of the Tenant who first entered into this Lease assigning it with the Landlord's consent to a third party, the provisions contained in this clause shall not apply to such third party or any subsequent successors in title thereto. Notwithstanding the foregoing if the Tenant assigns the Lease to an associated Company or any Company which comprises a member of

For inspection purposes only.
Consent of copyright owner required for any other use.

the Tenant's Group Company the provisions contained in the entirety of this clause shall apply to such associated Company or member of the Tenant's Group Company.

7. GUARANTOR'S COVENANTS

The Guarantor **HEREBY COVENANTS** with the Landlord, as follows:

7.1 Covenant and indemnity

That the Tenant or the Guarantor shall at all times during the Term (including any continuation or renewal of this Lease) duly perform and observe all the covenants on the part of the Tenant contained in this Lease, including the payment of the rents and all other sums payable under this Lease in the manner and at the times herein specified and all sums which may be due to the Landlord for mesne rates or as payment for the use and occupation of the Demised Premises, and the Guarantor hereby indemnifies the Landlord against all claims, demands, losses, damages, liability, costs, fees and expenses whatsoever sustained by the Landlord by reason of or arising in any way directly or indirectly out of any default by the Tenant in the performance and observance of any of its obligations or the payment of any rent and other sums arising before or after the expiration or termination of this Lease.

7.2 Joint and several liability

That the Guarantor agrees that the Landlord, in the enforcement of its rights hereunder, following default by the Tenant, may proceed against the Guarantor as if the Guarantor was named as the Tenant in the Lease.

7.3 Waiver

That the Guarantor hereby waives any right to require the Landlord to proceed against the Tenant or to pursue any other remedy whatsoever which may be available to the Landlord before proceeding against the Guarantor.

7.4 Postponement of claims

That the Guarantor will not claim in any liquidation, bankruptcy, composition or arrangement of the Tenant in competition with the Landlord and will remit to the Landlord the proceeds of all judgments and all distributions it may receive from any liquidator or Official Assignee of the Tenant and will hold for the benefit of the Landlord all security and rights the Guarantor may have over assets of the Tenant whilst any liabilities of the Tenant or the Guarantor to the Landlord remain outstanding.

7.5 Postponement of participation

That the Guarantor is not entitled to participate in any security held by the Landlord in respect of the Tenant's obligations to the Landlord under this Lease or to stand in the place of the Landlord in respect of any such security until all the obligations of the Tenant or the Guarantor to the Landlord under this Lease have been performed or discharged.

7.6 Release

That none of the following, or any combination thereof, releases, determines, discharges or in any way lessens or affects the liability of the Guarantor under this Lease or otherwise prejudices or affects the right of the Landlord to recover from the Guarantor to the full extent of this guarantee:

- 7.6.1 any neglect, delay or forbearance of the Landlord in endeavouring to obtain payment of any part of the rents or the other amounts required to be paid by the Tenant or in enforcing the performance or observance of any of the obligations of the Tenant under this Lease;

- 7.6.2 any refusal by the Landlord to accept rent tendered by or on behalf of the Tenant at a time when the Landlord was entitled (or would after the service of a notice under Section 14 of the 1881 Act have been entitled) to re-enter the Demised Premises;
- 7.6.3 any extension of time given by the Landlord to the Tenant;
- 7.6.4 any variation of the terms of this Lease (including any reviews of the rent payable under this Lease) or the transfer of the Landlord's reversion or the assignment of this Lease;
- 7.6.5 any change in the constitution, structure or powers of either the Tenant, the Guarantor or the Landlord or the liquidation or bankruptcy (as the case may be) of either the Tenant or the Guarantor;
- 7.6.6 any legal limitation, or any immunity, disability or incapacity of the Tenant (whether or not known to the Landlord) or the fact that any dealings with the Landlord by the Tenant may be outside or in excess of the powers of the Tenant;
- 7.6.7 any other act, omission, matter or thing whatsoever whereby, but for this provision, the Guarantor would be exonerated either wholly or in part (other than a release under seal given by the Landlord).

7.7 Disclaimer or forfeiture

That:

7.7.1 if

- (i) a liquidator or Official Assignee shall disclaim or surrender this Lease; or
- (ii) this Lease shall be forfeited; or
- (iii) the Tenant shall cease to exist

THEN the Guarantor shall, if the Landlord by notice in writing given to the Guarantor within three months after such disclaimer or other event so requires, accept from and execute and deliver to the Landlord a new lease of the Demised Premises subject to and with the benefit of this Lease (if the same shall still be deemed to be extant at such time) for a term commencing on the date of the disclaimer or other event and continuing for the residue then remaining unexpired of the Term, such new lease to be at the cost of the Guarantor and to be at the same rents and subject to the same covenants, conditions and provisions (other than clause 6) as are contained in this Lease;

- 7.7.2 if the Landlord does not require the Guarantor to take a new lease, the Guarantor shall nevertheless upon demand pay to the Landlord a sum equal to the rents and other sums that would have been payable under this Lease but for the disclaimer, forfeiture or other event in respect of the period from and including the date of such disclaimer, forfeiture or other event until the expiration of six months therefrom or until the Landlord has granted a lease of the Demised Premises to a third party (whichever shall first occur).

7.8 Benefit of guarantee

That this guarantee enures for the benefit of the successors and assigns of the Landlord under this Lease without the necessity for any assignment thereof.

7.9 Jurisdiction

- That the Guarantor will submit to the jurisdiction of the Irish courts in relation to any proceedings taken against the Guarantor or in relation to any new lease granted as aforesaid.

8 . REVENUE CERTIFICATES

8.1 It is hereby certified that the consideration (other than rent) for the lease is wholly attributable to property which is not residential property and that the transaction effected by this instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to property which is not residential property exceeds IRE.....;

8.2 It is further hereby certified that section 53 (lease combined with building agreement for dwelling house/apartment) of the Stamp Duties Consolidation Act, 1999, does not apply to this instrument.

9. ASSENT

The Landlord hereby assents to the registration of this Lease as a burden on the property comprised in Folio(s)14333 F County Waterford, 15922F County Waterford, Folio 519F County Waterford of the Register County and hereby consents to the use of the Land Certificate(s)(if issued) of the said Folio(s) for the purposes of such registration.

IN WITNESS whereof the parties hereto have executed this Lease in the manner following and on the day and year first above **WRITTEN**.

FIRST SCHEDULE (Demised Premises)

ALL THAT part of the lands and factory premises together with the buildings erected thereon [shown for the purposes of identification only outlined in red on the Plan] and each and every part thereof and all the appurtenances belonging thereto and known as the Michell Factory situate at Portlaw in the County of Waterford and including without prejudice to the generality of the foregoing:

1. all the Conduits and Plant in, upon, over or under and exclusively serving the same;
2. all Landlord's fixtures and fittings now or hereafter in or upon the same;
3. all additions, alterations and improvements thereto;

but excluding the airspace above and the ground below the Demised Premises.

SECOND SCHEDULE (Ancillary Rights)

The following rights and easements are demised (to the extent only that the Landlord is entitled to make such a grant) to the Tenant to be enjoyed in common with the Landlord and the tenants and occupiers of the Adjoining Property and all other persons authorised by the Landlord or having the like rights and easements:

1. The free and uninterrupted passage and running of the Utilities to and from the Demised Premises through the Conduits which are now, or may at any time during the Term be, in, on, under or passing through or over the Adjoining Property;
2. The right to enter the airspace above the roof of the Demised Premises, for the sole purpose of carrying out any works for which the Tenant is liable under this Lease.

THIRD SCHEDULE (Exceptions and Reservations)

The following rights and easements are excepted and reserved out of the Demised Premises to the Landlord and all other persons authorised by the Landlord or having the like rights and easements:

1. The free and uninterrupted passage and running of the Utilities through the Conduits which are now, or may at any time during the Term be in, on, under, or passing through or over the Demised Premises;
2. The right to connect and use any of the Utilities which pass through the Conduits and may be installed by the Tenant at any time during the Term
3. The right to grant a right of way for all times and for all purposes over the area coloured yellow on the map hereto to any future Tenants of all or part of the Adjoining Property.
4. The right to erect scaffolding for the purpose of repairing or cleaning any building now or hereafter erected on the Adjoining Property or in connection with the exercise of any of the rights mentioned in this Schedule notwithstanding that such scaffolding may temporarily interfere with the proper access to or the enjoyment and use of the Demised Premises;
5. The right to erect and maintain signs on the Demised Premises and any premises abutting the same advertising the sale or letting of any premises or for the purposes of a planning or other application in respect of any premises.
6. The rights of light, air, support, protection and shelter and all other easements and rights now or hereafter belonging to or enjoyed by the Adjoining Property;
7. The air space over and the ground below the Demised Premises;
8. Full right and liberty at any time hereafter to raise the height of, or make any alterations or additions or execute any other works to any buildings on the Adjoining Property, or to erect any new buildings of any height on the Adjoining Property in such a manner as the Landlord or the person exercising the right shall think fit notwithstanding the fact that the same may obstruct, affect or interfere with the amenity of, or access to, the Demised Premises or the passage of light and air to the Demised Premises but not so that the Tenant's use and occupation thereof is materially affected;
7. The right, subject to recompensing the Tenant for any damage caused thereby, to build on or into any boundary or party wall of the Demised Premises and, after giving not less than seven days prior written notice, to enter the Demised Premises to place and lay in, under or upon the same such footings for any intended party wall or party structure with the foundations therefore as the Landlord shall reasonably think necessary and for such purpose to excavate the Demised Premises along the line of the junction between the Demised Premises and the Adjoining Property and also to keep and maintain the said footings and foundations;
8. All mines and minerals in or under the Demised Premises with full power of working and getting to the same provided reasonable compensation is paid to the Tenant for any damage thereby occasioned to the Demised Premises.

FOURTH SCHEDULE
(Rent Reviews)

1. Definitions

In this Schedule, the following expressions shall have the following meanings:

- 1.1 "Base Rate" means the annual rate of interest for the time being chargeable under section 22 of the Courts Act, 1981.
- 1.2 "Review Date" means – the first day of the fourth year, the first day of the sixth, the eleventh, the sixteenth year of the Term and any additional date notified under clause 7 of this Fourth Schedule and "Relevant Review Date" shall be construed accordingly;
- 1.3 "the Reviewed Rent" means the rent agreed or determined in accordance with the provisions of this Schedule;

2. Upwards only rent review

The rent first reserved by this Lease shall be reviewed at each Review Date in accordance with the provisions of this Schedule:

- a. the rent chargeable on the first review date shall be fixed at €18,000 per month;
 - b. thereafter the rent shall equal the higher of either the rent contractually payable immediately before the Relevant Review Date or the revised rent using the consumer price index
 - c. for the preceding two year period, ending on the second Review Date,
 - d. for the preceding five year period ending on the Third and Fourth Review Date
- as a basis for calculation on the Relevant Review Date, as agreed or determined pursuant to the provisions of this Schedule.

3. Rent Restrictions

If at a Review Date the Landlord's right to collect, review or increase the rent as from that Review Date in accordance with this Lease is restricted or modified by law, then when such restriction or modification is removed, relaxed or modified, the Landlord may, by giving not less than seven days' notice in writing to the Tenant, prescribe as an additional Review Date the date of expiration of such notice and the rent payable from such additional Review Date shall be ascertained in accordance with this Schedule.

4. Memoranda of reviewed rent

As soon as the amount of any reviewed rent has been agreed or determined, memoranda thereof shall be prepared by the Landlord or its solicitors and thereupon shall be signed by or on behalf of the Tenant and the Landlord and the Tenant shall be responsible for and shall pay to the Landlord the stamp duty (if any) payable on such memoranda and any counterparts thereof, but the parties shall each bear their own costs in respect thereof.

5. Time not of the essence

For the purpose of this Schedule, time is not of the essence.

SIGNED SEALED AND DELIVERED
By the said Landlord in the presence of:-

X PM [Signature]
X PH [Signature]

PRESENT when the Common Seal
of the **TENANT**
was affixed hereto:

*For inspection purposes only.
Consent of copyright owner required for any other use.*

[Signature]
Director

[Signature]
Director/
Secretary

SIGNED SEALED AND DELIVERED
By the Guarantor in the presence of:

[Signature]

For inspection purposes only.
Consent of copyright owner required for any other use.



Environmental Protection Agency

Article 11 Request Form Reference No : 1470

Section I

Applicant Sector : Private Operator
Local Authority : Waterford County Council
Private Operator Organization Name : Ormonde Organics Limited
Correspondence Address Line 1 : Killowen
Correspondence Address Line 2 : Portlaw
Correspondence Address Line 3 :
County : Waterford
Dublin Post District :
Telephone : 051 567024
Fax : 051 567005
Email : mmurphy@ormondeorganics.ie
Additional Email :
Additional Email :
Prefix : Mr.
Contact First Name : Michael
Contact Last Name : Murphy
Job Title : Director

Site Details

Site Address Line 1 : Ormonde Organics Limited
Site Address Line 2 : Killowen
Site Address Line 3 : Portlaw
Site Address County : Waterford
Site Address Dublin Postal District :
Grid Reference Northings : 117866
Grid Reference Eastings : 246500
Existing Environmental Authorisation : No
Environmental Authorisation Type :
Authorisation Number :
Authorisation Status :
Expiry date :
Previous Article 11 Request : No
Previous Reference Number :
Previous Waste Activity : No
Previous Activity Description :
Previous Activity Operator :

Nature and Extent of Proposed Activity

Nature of Activity : Ormonde Organics Limited (Ormonde) operate a waste water sludge composting facility at the site. As the plant only accepts and treats sludges from facilities operated by local authorities for the treatment of waste water, it is exempt, under Section 51 of the Waste Management Acts

For inspection purposes only.
Consent of copyright owner required for any other use.

1996 to 2010 (Acts), from the requirements of Section 39 of the Acts relating to the requirement to hold a Waste Licence or Waste Permit. Ormonde have planning permission for the composting facility(Ref PD.04.1831) which allows the acceptance of organic wastes other than urban waste water sludges, which include: EWC 20 01 08 Household biodegradable kitchen and canteen waste: EWC 20 02 01 Other biodegradeable wastes, (garden and park waste), and EWC 20 03-04 Septic Tank Sludges. In response to the Waste Management (Food Waste) Regulations (SI 508 of 2009), and the impending Regulations on Household Food Waste, Ormonde wished to expand the wastes processed at the facility to include EWC 20 01 08 and 20 02 01 approved in the planning permission. Ormonde will continue to compost urban wastewater treatment sludges at the facility, which are exempt from the requirements of Section 39 of the Acts. The proposal to accept non-exempt waste types will not require the construction of any new building or alteration of the site layout. Nor will it result in any emission to surface water, ground or groundwater. As the additional waste types are not exempt from the requirements of Section 39 of the Acts, a Waste Licence/Permit will be required. Ormonde considers that a Waste Permit is required given the total quantity of the non urban waste water treatment sludges that will less than 10,000 tonnes per annum and the maximum amount of compost and non exempt organic waste on site at any one time will be less than 6,000m3. Ormonde has discussed this with Waterford County Council who recommended an Article 11 request be submitted

Description of Waste	Solid Liquid	(EWC) Code	Annual intake in Tonnes	Annual intake in Liters	Hazardous	Source of Waste
Biodegradable Kitchen and Canteen Waste	Solid	20 01 08	7000		No	Municipal (household + commercial)
Other Biodegradable Waste(Garden & Park Waste)	Solid	20 02 01	1000		No	Gardens and Parks

Clarification of Activities

Disposal/Recovery :	Recovery
Residual Waste Tonnes :	100
Residual Waste Liters :	
Biological Treatment :	Yes
Bio Treatment Quantity :	1320 tonnes/5,280m3

Soil and Inert Waste recovery to Land

Land Improvement :	No
Fill Reason :	
Lifetime Tonnage :	
Planning Authority Exemption :	No
Planning Reference Number :	
Suitability Details :	
Supporting Documents :	No
Prior Processing :	No
Processing Details :	
Existing or Previous Fill :	
Previous fill Completion Date :	
Location map will be provided :	No
One off or Waste Plan :	
Waste Plan Details :	
Operator is Land Owner :	No

Other Factors

For inspection purposes only.
Consent of copyright owner required for any other use.

Designated Sites : Yes

	Site Name	Site Code
	River Suir	2137

Wetland : No

Wetland Details :

Other authorization Required : Planning Permission has been granted. Approval from the Department of Agriculture, Fisheries and Food (DAFF) as the wastes contain animal by-products. An application for approval is being prepared.

*For inspection purposes only.
Consent of copyright owner required for any other use.*

For inspection purposes only.
Consent of copyright owner required for any other use.

Mr Michael Murphy
Director
Ormonde Organics Limited
Killowen
Portlaw
Co Waterford

Headquarters, PO Box 3000
Johnstown Castle Estate
County Wexford, Ireland
Ceanncheathrú, Bosca Poist 3000
Eastát Cháisteán Bnailé Sheáin
Contae Loch Garman, Éire
T: +353 53 9160600
F: +353 53 9160699
E: info@epa.ie
W: www.epa.ie
LoCall: 1890 33 55 99

24 August 2010

Our Ref: Article 11 No. 1470

Re: Article 11 Declaration

Dear Mr. Murphy

The Agency has reviewed your Article 11 request which was received on the 4th August 2010, and based on the information provided, and having regard to the Waste Management (Facility Permit & Registration) Regulations 2007, as amended, makes the following determination:

1. The recovery of sludges is exempt from waste authorisation under Section 51 of the Waste Management Acts 1996 to 2007, where the recovered sludges are used in agriculture only. Where the proposed composting facility accepts sludge for recovery in agriculture only the activity will not require any waste authorisation.
2. Alternatively if sludge is mixed with biowaste from canteen/kitchens and/or from gardens/parks/cemeteries, this waste combination is not exempt from waste authorisation, even if used in agriculture, as the exemption applies to reuse of sludge in agriculture only.
 - a. A waste facility permit under Class 8 of Part I of the Third Schedule of the above Regulations will be required where (i) the maximum amount of biowaste, digestate (i.e. biowaste & sludge being digested) and compost is below 6,000 cubic metres at any time, and (ii) the annual intake of biowastes (i.e. non-exempted biodegradable wastes, which does not include sludge) will not exceed 10,000 tonnes.
 - b. A Waste Licence will be required if the activity is expected to exceed the thresholds specified under Class 8 as set out above. Should a waste licence be



For inspection purposes only.
Consent of copyright owner required for any other use.

required, information on the licence application process and the appropriate forms are available at www.epa.ie/downloads/forms/lic/waste/.

You should also ensure that all requirements of the Animal By-Products Regulation No. 1774/2002 and the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2009, as may be imposed by the Department of Agriculture, Fisheries and Food, are complied with.

I trust this advice assists.

Yours sincerely

Bea Claydon

ff

Caroline Murphy

Inspector

Environmental Licensing Programme

Office of Climate, Licensing & Resource Use

cc: Waterford County Council

For inspection purposes only.
Consent of copyright owner required for any other use.

For inspection purposes only.
Consent of copyright owner required for any other use.