MR01 (ef)

Companies House

Registration of a Charge

Company name: CARNTOGHER COMMUNITY ASSOCIATION
Company number: NI035332

Received for Electronic Filing: 20/03/2018

Details of Charge

Date of creation: 14/03/2018
Charge code: NI03 5332 0006
Persons entitled: THE DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND RURAL AFFAIRS
Brief description: ALL THAT PART OF THE LANDS COMPRISED IN FOLIO LY67733 COUNTY LONDONDERRY SHOWN EDGED RED ON THE MAP ATTACHED HERETO TOGETHER WITH ALL BUILDINGS ERECTED OR TO BE ERECTED THEREON.
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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.

Certified by: PATRICK J J MCGUCCIN

Electronically filed document for Company Number: NI035332
CERTIFICATE OF THE
REGISTRATION OF A CHARGE

Company number: NI35332

Charge code: NI03 5332 0006

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 14th March 2018 and created by CARNTOGHER COMMUNITY ASSOCIATION was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th March 2018.

Given at Companies House, Belfast on 20th March 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006.
THIS DEBENTURE is made the 14th day of March 2018

BETWEEN:-

1. CARNTOGHER COMMUNITY ASSOCIATION ("the Company") having its registered office at An Carn, 132A Tirkane Road, Maghera, County Derry, BT46 5NH.

2. THE DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND RURAL AFFAIRS ("the Department") of Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB.

PART 1

RECITALS

Under the terms and conditions of a Letter of Offer of financial assistance ("the Financial Assistance Letter") particulars of which are set forth in the First Schedule hereto the Department agreed to make available to the Company the financial assistance therein mentioned upon the obligation of the Company to repay such financial assistance being secured as hereinafter provided

NOW THIS DEBENTURE WITNESSES as follows:

PART 2
1. As security for the obligations of the Company to repay the financial
assistance (or any part or parts thereof) under the Financial Assistance Letter
and the payments agreed to be made to the Department under this Debenture
the Company as beneficial owner and as registered owner as the case may be
hereby:-

1.1 Grants and conveys unto the Department ALL THAT AND THOSE
the freehold hereditaments and premises set forth in the Second
Schedule hereto TO HOLD the same unto and to the use of the
Department in fee simple subject to the proviso for redemption
hereinafter contained;

1.2 Demises unto the Department ALL THAT AND THOSE the leasehold
hereditaments and premises set forth in the Second Schedule hereto TO
HOLD the same unto and to the use of the Department henceforth for
all the residue of the terms of years now unexpired (save the last day
thereof) granted by the Lease or Leases (if any) set forth and described
in the Second Schedule hereto AND the Company hereby declares that
it shall henceforth hold the reversion of the said terms of years demised
by the said Lease or Leases upon trust for the Department subject to
any equity of redemption subsisting therein and upon trust to dispose
thereof as the Department may from time to time direct AND the
Company hereby authorises the Department and does hereby appoint
the Department to be the attorney of the Company in its name and on
its behalf to appoint a new trustee or trustees in place of the Company
or any trustee or trustees appointed under this power as if the Company
or such other trustee or trustees were incapable of acting in the trusts of
the reversion or in any of them hereby declared;

1.3 Charges all its registered lands described and set forth in the Second
Schedule hereto in favour of the Department and hereby assents to the
registration of the charge hereby created as a burden on the lands
comprised in Folio or Folios (if any) so set forth and described in the
Second Schedule and the address of the Department for the service of
notices in connection therewith is c/o The Solicitor, Departmental
Solicitor’s Office, Victoria Hall, 12 May Street, Belfast;

RESTRICTION ON FURTHER CHARGES

2. The Company hereby covenants that it shall not create any mortgage or charge
whether floating or specific on the whole or any part of the undertaking,
goodwill, property and assets for the time being of the Company or its
subsidiaries to rank in priority to or pari passu with this Debenture without the
prior consent in writing of the Department

PART 3

PAYMENTS

All payments made by the Company (whether as principal debtors or sureties) under
this Debenture on account of principal interest or otherwise shall be made to the
Department in sterling free of all deductions and without set-off or counter-claim and
without deduction for or on account of any present or future taxes, levies, imposts,
duties, deductions, withholdings or other charges of whatsoever nature imposed
levied, collected, withheld or assessed unless the Company is compelled by law to
deduct the same and if so compelled, the Company shall pay such additional amounts
as may be necessary in respect of principal, interest or otherwise in order that the net
amounts which shall remain and be paid after such taxes, levies, imposts, duties,
deductions, withholdings or other charges shall equal to respective amounts due
hereunder

PART 4

COVENANTS BY THE COMPANY

1. The Company hereby covenants with the Department that so long as any
moneys remain owing to the Department under this Debenture the Company
shall:-

1.1 Comply with the terms and conditions of the Financial Assistance
Letter;

1.2 Not use the Financial Assistance or any part save for the purposes for
which the Financial Assistance was offered to the Company; under the
Financial Assistance Letter;

1.3 Carry on its business and undertaking in an effective and proper
manner and procure that the Company’s subsidiaries do likewise;

1.4 Furnish the Department with such information as the Department shall
reasonably require (i) as to all matters relating to its business and
affairs and (ii) as to the business and affairs of its subsidiaries and (iii)
as to any after-acquired property of the Company or any of its
subsidiaries;
1.5 Pay all rents, taxes, duties, assessments and other outgoings and perform all covenants and comply with all restrictions and stipulations affecting any land or building for the time being owned by it, and shall comply with all planning requirements, regulations, bye-laws affecting such land or buildings and (save in the case of assets not having a value) keep all such land and buildings and all machinery, plant, tools, fixtures and implements for the time being owned by the Company in good and proper repair and condition;

1.6 Keep all its property and assets of an insurable nature insured with a good and solvent insurance office to be approved of by the Department against loss or damage by fire, explosion, lightning, aircraft, storm and tempest and such other risks which are in accordance with sound commercial practice normally insured against by companies carrying on similar business in and to a value such as a prudent company carrying on a similar business or businesses in Northern Ireland would normally insure such property and assets and shall maintain and keep up a policy or policies of insurance indemnifying the Company to such amount as the Department may reasonably require against all claims under the Employers’ Liability Acts, Fatal Injuries Acts, Fatal Injuries Acts and actions at Common Law and shall likewise effect such other insurances in respect of its business as the Department may reasonably require (including insurance against loss arising from interruption or interference with the Company’s business consequent upon any loss or damage by fire explosion or such other risks as aforesaid) and produce the policies written up to date issued in relation thereto for all such
insurance to the Department for inspection on demand and duly pay or cause to be paid the premiums and other sums of money payable in respect of all such insurances and if required produce to the Department on demand the receipts for the same and such evidence as the Department shall reasonably require concerning the effectiveness of such insurances and shall ensure that at all times the interest of the Department is noted on all such policies of insurance.

2. If default should be made at any time by the Company in:-
   2.1 Making all such payments as are specified in Clause 1.6 hereof the Department may pay the same or;
   2.2 Effecting or keeping up such policies of insurance as are specified in Clause 1.6 hereof the Department may effect and keep up the same or;
   2.3. Keeping all its land, buildings and other property in good and proper repair and condition the Department shall be at liberty to enter upon such property and put the said land, buildings and other property into repair;
   2.4 The Company shall on demand pay to the Department any sums of money expended for any purposes specified in Clauses 2.1, 2.2 and 2.3 hereof with interest thereon at the same rate as is specified in the Financial Assistance Letter from the time of the same respectively having been expended and until such payment and any such monies (including interest) payable to the Department shall be a charge on the property of the Company
3. The Company hereby covenants with the Department that it shall not (and shall procure that every Company which is or becomes its subsidiary shall not) without the previous consent in writing of the Department transfer, sell, lease, assign, licence or otherwise dispose of its respective freehold, leasehold or registered lands, its business, undertakings or assets as a whole or substantially as a whole

PART 5

WARRANTIES, REPRESENTATIONS AND INDEMNITIES

1. The Company hereby warrants and represents to the Department that to the best of its knowledge and belief having made all due and proper enquiries as follows:-

1.1 The making and performance of this Debenture will not contravene its Memorandum and Articles of Association nor any agreement, indenture or other instrument which is binding upon the Company or any of its subsidiaries and are within the Company corporate powers and have been authorised by all necessary corporate action;

1.2 Save as disclosed in writing prior to the execution hereof, neither the Company nor any of its subsidiaries is engaged nor is about to engage in any litigation or arbitration of any material importance and no such litigation or arbitration is pending or threatened against it;

1.3 Neither the Company nor any of its subsidiaries is in default under a contractual or statutory obligation whatsoever (including the payment
of any due taxes which materially and adversely affect the business or
financial condition of the Company or any such subsidiary);

1.4 Full disclosure has been made to the Department prior to the date
hereof of all facts in relation to the Company and each of its
subsidiaries and their respective business and affairs are material and
ought properly to be made known to any person proposing to lend
money to the Company; and

1.5 The Company is not in default of any of the terms or conditions of the
Debenture.

2. The Company hereby agrees to indemnify and keep the Department
indemnified against:-

2.1 Any loss or damage which may be incurred or suffered by the
Department as a result of the breach of any covenant, undertaking,
representation or warranty herein contained; and

2.2 All actions, proceedings, costs, damages, expenses, claims and
demands howsoever arising in connection therewith.

PART 6

ENFORCEMENT OF SECURITY

1. Upon non compliance by the Company with a written demand by the
Department under the Financial Assistance Letter the Department may
forthwith or at any time thereafter without any further notice appoint by
instrument in writing a Receiver of the lands, assets and undertakings hereby
charged and may remove any Receiver so appointed and may appoint another
in his place and may fix (at or after the time of his appointment) the
remuneration of any such Receiver (subject to Article 46 of the Insolvency
(Northern Ireland) Order 1989 or any statutory modification or re-enactment
thereof) Provided Always that any such Receiver shall be the agent of the
Company and the Company shall be solely responsible for his acts and
defaults and for his remuneration

2. A Receiver appointed in accordance with the provisions of Clause 1 of this
Part shall have power:-

2.1 To take possession of, collect and get in the property hereby charged
and for that purpose to take any proceedings in the name of the
Company;

2.2 To carry on or concur in carrying on the business of the Company and
for that purpose to raise money on the property hereby charged in
priority to this security or otherwise;

2.3 Forthwith and without any of the restrictions imposed by Section 20 of
the Conveyancing and Law of Property Act 1881 to sell or concur in
selling (but when necessary with the leave of the Court) and to let or
lease or concur in letting or leasing and to accept surrenders of leases
or tenancies of all or any of the property hereby charged and to carry
any such sale, letting, leasing or surrender into effect by conveying,
leasing, letting or accepting surrenders in the name and on behalf of the
Company or other estate owner. Any such sale price or any fine on the
grant of a lease or tenancy may be satisfied in cash, debenture or other
obligations, shares, stocks or other valuable consideration and may be payable in a lump sum or by installments spread over such period as the Receiver shall think fit. Plant, machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the Company or of any other person, firm or corporation;

2.4 To make any arrangements or compromises which such Receiver may think expedient in the interest of the Department

3. Section 19, 21, 22 and Section 24 sub-sections (3) to (5) and (7) to (8) inclusive of the Conveyancing and Law of Property Act 1881 and the powers thereby or by any statutory modification or extension thereof from time to time in force or any other statutory power or powers conferred on a Mortgagee or Receiver shall apply to such Receiver as if such provisions were incorporated herein save that all moneys received by such Receiver after providing for the matters specified in paragraphs (i) and (ii) of Section 24(8) aforesaid and for all costs, charges and expenses of or incidental to the exercise of any of the powers of such Receiver shall be applied in or towards the satisfaction of the moneys hereby secured

4. It is hereby declared that any such Receiver may be appointed either before or after the Department shall enter into or take possession of the property hereby mortgaged or charged or any part thereof

5. The Company hereby irrevocably appoints any Receiver so appointed as aforesaid the Attorney or Attorneys of the Company and in its name and on its
behalf and as its act and deed to execute, deal and deliver and otherwise
perfect any deed, assurance agreement, instrument or act which may be
required or may be deemed proper for any of the purpose aforesaid.

6. In addition to any power hereby or by law given to the Department; the
   Department may enter into possession of any part of the property hereby
   mortgaged or charged which may at any time appear to the Department to be
   in danger of being taken under any process of law or by any creditor of the
   Company or otherwise howsoever in jeopardy and where any Receiver is
   appointed under this clause the provision of the preceding clause hereof shall
   apply mutatis mutandis and the Department may at any time give up
   possession or withdraw such Receivership.

7. After the security hereby constituted has become enforceable the Company
   shall from time to time at all times execute and do all such assurances, acts,
   deeds and things (and including where necessary applying to the Court) as the
   Department may require for facilitating the realisation of the property hereby
   mortgaged or charged or any part thereof and for exercising all the powers,
   authorities and discretions hereby or by law conferred on the Department and
   in particular the Company shall: -

   7.1 Execute all transfers, conveyances, assignments and assurances of the
   property hereby mortgaged or charged or any part or parts thereof
   whether to the Department or to its nominees or to any other person or
   persons as the Department shall direct;
7.2 Perform or cause to be performed all acts and things requisite or desirable according to the law of the country in which the property mortgaged or charged or any part thereof is situate for the purpose of giving effect to the exercise of any of the said powers authorities and discretions;

7.3 Give all notices, orders and directions which the Department may think expedient.

8. Neither the Department nor any Receiver appointed as aforesaid shall by reason of the Department or of such Receiver entering or taking possession of the property hereby mortgaged or charged or any part thereof be liable to account as mortgagees in possession or for anything save actual receipts or be liable for any loss on realisation of assets or for any default or omission for which a mortgagee in possession might be liable

9. Upon payment of the entire of the moneys hereby secured together with all interest which may be due thereon and upon payment of all costs, charges and expenses incurred by the Department and by any Receiver in relation to these presents or otherwise arising hereout the Department shall at any time thereafter at the request and expense of the Company discharge all property hereby mortgaged or charged from the terms and provisions hereof so that the same shall henceforth be held by the Company for their own absolute use and benefit freed and discharged from these presents.
10. The Department without prejudice at any time and from time to time with or without the assent or knowledge of the Company grant time or indulgence to or compound with any person, firm or company liable to the Department on any guarantee or security for the time being held by the Department or to which the Department may be entitled and may make and release securities without affecting the liability of the Company hereunder or the right or title of the Department to the security hereby created

PART 7

GENERAL

1. Captions:

The captions in this Debenture are for the convenience of reference only and shall not define or limit the provisions hereof

2. Evidence of Indebtedness:

For all purposes of or in connection with this Debenture including any legal proceedings hereunder a certificate of the Department signed by a duly authorised officer of the Department shall be conclusive evidence of any sums owed by the Company to the Department

3. No Waivers:

No expressed or implied waiver by the Department of any term provision or condition upon which they are entitled to rely as against the Company shall be deemed or be construed as a further or continuing waiver of such term,
provision or condition unless so provided in writing by the party in question. The rights and remedies provided herein are cumulation and not exclusive of any right or remedies provided by law.

4. Assignment:

The Company shall not be entitled to assign the benefit of this Debenture

5. Saturdays, Sundays and Public Holidays:

Any payments to be made or notice or other communication to be served or other obligation to be performed or any other thing to be done hereunder on a date which falls a Saturday, Sunday or Public Holiday shall be deemed to be made, or performed if carried out on the business days next following.

6. Governing Law:

This Debenture shall be governed and construed in accordance with the law of Northern Ireland.

7. Time of Essence:

In the construction of all provisions hereunder relating to the payment of moneys time shall be of the essence of the contract.

8. Severability:

If for illegality or any other reason any particular provisions of this Debenture shall become illegal or unenforceable this shall not affect the remaining provisions which shall remain in full force and effect.
9. Expenses:

The Company shall on demand pay all the legal and other costs, charges and expenses reasonably and properly incurred by the Department in and about the acceptance, preparation, implementation, performance and execution of these presents and the Company shall further on demand pay all legal and other costs, charges and expenses whatsoever reasonably and properly incurred by the Department in and about the protection and enforcement of its securities hereunder or otherwise and in connection with any act, matter or thing made, done or executed by the Department or any of its servants or agents in or about the matters dealt with or arising out of this Debenture and shall pay interest thereon at the same rate as is applicable to the Financial Assistance by virtue of the Financial Assistance Letter hereto computed from the date of demand until the date upon which the same shall have been recovered by or paid to the Department.

10. Notices:

Any notice or demand to be given hereunder shall be in writing and shall be deemed duly given upon being delivered or transmitted by telex, or 48 hours after having been posted by prepaid registered post, to the party to which it is to be given at its address herein set out or such other address as such party shall have previously communicated by notice to the party giving such first mentioned notice or demand.

11. Continuing Security:
These presents shall be a continuing security to the Department and the same shall not be prejudiced by the settlement of any account or by any collateral or other security being taken for any of the moneys intended to be secured hereby even if they shall not be payable until a further date

12. No Merger:
These presents shall not operate as a merger or defeasance of any prior charge or estate, legal or equitable, lien, guarantee or security of the Department upon or in the security hereby created or any part thereof

13. (A) The Company hereby grants unto the Department full power and authority as part of its security to grant and transfer in due exercise of its power of sale along with the land already charged herein ("the Charged Land") and as easements appurtenant thereto exercisable over the land remaining in Folio County Londonderry ("the Adjoining Land") the right set out in the third Schedule hereto and for this purpose the Company hereby irrevocably appoints the Department to be its lawful attorney

(B) In the event of a disposal of the Adjoining Land the Company covenants to reserve thereout as an easement appurtenant to the Charged Land the said right set out in the third Schedule hereto for the benefit of the Charged Land

(C) The company hereby assents to the registration of the said powers and the said covenant in favour of the Department as burdens affecting the Adjoining Land and further assents to registration of any entry on the Folio inhibiting all dealings with the adjoining land except with the consent of the Department
which consent cannot be withheld or delayed should the Company produce an
executed document reserving the right set out in the Third Schedule hereto for
the benefit of the Charged Land.

**FIRST SCHEDULE**

Letter of Offer of Financial Assistance dated 27 November 2017 from Mid Ulster
Rural Development Partnership, Local Action Group of Gortalowry House, 94
Church Street, Cookstown, BT80 8HX to Carntogher Community Association.

**SECOND SCHEDULE**

All that part of the lands comprised in folio LY67733 County Londonderry shown
edged red on the map attached hereto together with all buildings erected or to be
erected thereon.

**THIRD SCHEDULE**

The right for the Department its successors and assigns to pass and repass on foot or
with motor vehicles at all times and for all purposes over the lands between points a
and b shown coloured yellow on the map attached hereto from the Charged Lands to
the public road.
IN WITNESS whereof this Deed has been executed and delivered as a Deed the day and year first herein written

EXECUTED as a DEED BY CARNTOGHER
COMMUNITY ASSOCIATION acting by:-

Liam O'Flannagain
(Director)

Maurice Kane
(Secretary)

in the presence of

[Signature]

[Signature]

[S Gerard]
TRANSFER MAP

CARNTOGHER COMMUNITY DEV. ASSOC.

TIRKANE RD, MAGHERA OS. Sheet
OS. Sheet 64-08

scale 1:1250 / dec.2017

290m²

a b RIGHT OF WAY FOR ACCESS