

Dated

17th July

2018

(1) Christopher Francis Russell Purchase

- and -

(2) Sussex Food Company Ltd

COUNTERPART RENT DEPOSIT DEED

relating to

Ground Floor, 31 North Street, Chichester

GEORGE IDE^{LLP}
solicitors

52 North Street
Chichester
West Sussex
PO19 1NQ
Ref: DJW/PUR1804-16

Contents

Clause

1	Interpretation	1
2	Deposit	3
3	Landlord's Duties	3
4	Interest	3
5	Withdrawals	4
6	Top Up of the Deposit	4
7	Repayment of the Deposit	5
8	Sale of Reversion	5
9	Costs	5
10	The Right of Re-entry in the Lease	5
11	Indemnity	5
12	Notices	5
13	Third Party Rights	6
14	Governing law	6
15	Jurisdiction	6

Schedule

No table of contents entries found.

Annex

No table of contents entries found.

THIS DEED is made on the 17th day of ^{July} 2018.

HM Land Registry

Tenant's title number:

Administrative area:

This deed is dated 17th July 2018

PARTIES

- (1) Christopher Francis Russell Purchase of Greytiles 40 Church Road East Wittering, West Sussex PO20 8PS (the "Landlord"); and
- (2) The Sussex Food Co Limited incorporated and registered in England and Wales with company number 09575996 whose registered office is at Sands, East Bracklesham Drive, Chichester, West Sussex, United Kingdom, PO20 8JW (the "Tenant").

BACKGROUND

- (A) This deed is supplemental and collateral to the Lease.
- (B) The Landlord is entitled to the immediate reversion to the Lease.
- (C) The residue of the Term is vested in the Tenant.

AGREED TERMS

1 Interpretation

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

"Account"; a separate, interest bearing deposit account at the Bank.

"Bank"; National Westminster Bank plc and its successors and assigns or such other bank or building society in England or Wales as the Landlord may from time to time nominate.

"Default"; any failure by the Tenant to:

- (a) pay the whole or any part of the Rents, interest, outgoings and any other sums due to, or recoverable by, the Landlord under the Lease by the due date for such payment, whether or not reserved by way of rent and whether formally demanded or not;
- (b) observe and perform any tenant covenants and conditions contained or referred to in the Lease or this deed;
- (c) pay any claims, demands, damages, losses, costs or other expenses arising out of, or incidental to, the enforcement of the obligations, covenants and conditions of the Tenant under the Lease or this deed.

"Deposit"; the Initial Deposit and any other sums from time to time standing to the credit of the Account.

"Expenses"; all losses arising as a consequence of (or which it is reasonably foreseeable that the Landlord will have to incur as a result of) the forfeiture or disclaimer of the Lease including (but not limited to) the following costs and expenses:

- (a) the reasonable costs and expenses payable to legal advisers, surveyors and accountants for advice in connection with such forfeiture or disclaimer;
- (b) the reasonable costs and expenses for marketing the Property for reletting purposes;
- (c) mesne profits from the date of forfeiture or disclaimer until the date of possession by the Landlord;
- (d) a sum of the Rents at an annual rate equal to the amounts payable by the Tenant under the Lease immediately before the date of forfeiture or disclaimer, in respect of the period beginning on the date that possession is obtained until the earlier of the date on which the Property is relet and the expiry of six months;
- (e) the reasonable fees and expenses payable to any agents or surveyors in connection with the reletting or attempted reletting of the Property;
- (f) the reasonable costs and expenses payable to legal advisers in connection with the reletting or attempted reletting of the Property;
- (g) VAT (if chargeable) in respect of the above.

"Initial Deposit"; the sum of £12,250 representing 3 months' rent plus £2,450 on account of VAT.

"Interest"; any interest accruing on the Deposit.

"Lawful Assignment"; an assignment of the Lease (other than an assignment in breach of the terms of the Lease).

"Lease"; the lease of the Property dated 18th August 2016 and made between Christopher Francis Russell Purchase, The Sussex Food Co Limited, Nicholas Sutherland and Timothy Vaughan duly registered at HM Land Registry with title number WSX385649 as varied by a Deed of Variation dated with the same date as this Rent Deposit Deed together with all other documents supplemental or collateral to that lease except this deed.

"Minimum Amount"; the aggregate of three months' worth of the Principal Rent and any VAT that may be payable such sum from time to time provided that at no time shall the Minimum Amount be less than the Initial Deposit.

"Principal Rent"; the annual rent first reserved under the terms of the Lease (ignoring any rent free period allowed to the Tenant at the commencement of the Term) as increased from time to time in accordance with the provisions for review contained in the Lease.

"Property"; Ground Floor, 31 North Street, Chichester as more particularly described in and demised by the Lease.

"Rents"; any sums reserved as rent under the Lease.

"Term"; has the meaning given to it in the Lease.

"VAT"; value added tax (or any equivalent tax) chargeable in the UK or elsewhere.

"Working Day"; any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

1.2 References to the **"Landlord"** include a reference to the person entitled for the time being to the immediate reversion of the Lease.

1.3 References to the **"Tenant"** include a reference to its successors in title and assigns.

- 1.4 The expression "**tenant covenant**" has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.5 Clause headings shall not affect the interpretation of this deed.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 References to clauses are to the clauses of this deed.
- 1.12 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 A reference to **writing** or **written** includes fax but not e-mail.

2 Deposit

- 2.1 The Landlord acknowledges receipt of the Initial Deposit from the Tenant and undertakes to place the Initial Deposit in the Account as soon as reasonably possible, but in any event within two Working Days after the date of this deed.
- 2.2 The Landlord undertakes to hold the Deposit on trust for the Tenant in accordance with, and subject to, the terms of this deed.
- 2.3 At all times the Tenant shall maintain the Deposit at a sum not less than the Minimum Amount.

3 Landlord's Duties

- 3.1 The Landlord is not obliged to secure any particular rate of Interest and shall be entitled to open the Account with the Bank.
- 3.2 The Landlord as trustee shall not be liable to the Tenant for any loss to the Deposit or any loss of Interest arising from any act or default unless such loss arises from the wilful default or negligence of the Landlord.

4 Interest

- 4.1 Except where this deed otherwise provides, any Interest earned on the Deposit shall belong to the Tenant.
- 4.2 No interest shall be released to the Tenant where the Tenant is in Default or the Lease is forfeited or disclaimed.
- 4.3 Interest shall be released to the Tenant annually and only to the extent that, if credited to the Account, the Interest would cause the Deposit to exceed the Minimum Amount.

- 4.4 If, and for so long as, the Deposit is less than the Minimum Amount, any Interest earned on the Deposit shall not be paid out to the Tenant but shall be added to and form part of the Deposit.
- 4.5 The Landlord shall be entitled (but not obliged) to withhold such sums from any Interest earned on the Deposit as represent any tax that may lawfully be due and to pay such sums to the appropriate tax authority.
- 4.6 In circumstances where the Landlord does not withhold any sums pursuant to clause 4.5, the Tenant shall indemnify the Landlord on demand against all tax payable in respect of any Interest earned on the Deposit.

5 Withdrawals

- 5.1 Following any Default, the Landlord shall be entitled to withdraw from the Deposit such proportion of the Deposit as may be reasonably necessary to make good any such Default.
- 5.2 Subject to clause 5.5, the Landlord may make withdrawals from the Deposit as often as necessary.
- 5.3 If the Lease is forfeited or the liability of the Tenant under the Lease is disclaimed, then as compensation for the Expenses, the Landlord shall be entitled to withdraw from the Deposit such sums as may be reasonably necessary to satisfy the Expenses.
- 5.4 Any bank charges levied on the Account may be charged to the Account and met from the Deposit. If such bank charges are paid by the Landlord, the Landlord shall be entitled to withdraw from the Deposit a sum equivalent to those charges.
- 5.5 The Landlord shall give written notice to the Tenant within five Working Days following each and every withdrawal made under clause 5.1, specifying the amount of the withdrawal, the date of the withdrawal and the invoice or liability to which the withdrawal relates.
- 5.6 Any sums withdrawn from the Deposit by the Landlord pursuant to this Clause 5 shall be the property of the Landlord free from the trust referred to in clause 2.2.

6 Top Up of the Deposit

- 6.1 Without prejudice, and in addition to the Tenant's other obligations in this deed, the Tenant shall pay to the Landlord such sum or sums as shall be necessary to ensure that the Deposit is not less than the Minimum Amount within ten Working Days after each of the following:
- (a) the date of every occasion upon which the Landlord serves notice in writing on the Tenant that the Landlord has made a withdrawal from the Account; and
 - (b) the date upon which each and every review of the Principal Rent is settled in accordance with the terms of the Lease.
- 6.2 Where the Landlord serves notice in writing on the Tenant that the Landlord has exercised the option to tax under Schedule 10 of the Value Added Tax Act 1994 in respect of the Property, then the Tenant shall pay to the Landlord, within ten Working Days from, but not including, the date of the notice, such sum as shall be necessary to ensure that the Deposit is not less than the Minimum Amount.
- 6.3 Where the Landlord has exercised its option to tax under Schedule 10 of the Value Added Tax Act 1994 and the rate of VAT applicable to the Principal Rent is increased, then the Tenant shall pay to the Landlord within ten Working Days of written demand by the Landlord such sum as shall be necessary to ensure that the Deposit is not less than the Minimum Amount.
- 6.4 The Landlord undertakes to place any monies paid to it under this clause 6 into the Account as soon as reasonably possible, but in any event within two Working Days following receipt.

7 Repayment of the Deposit

7.1 Subject to the rights of the Landlord under this deed, the Landlord shall pay the Deposit to the Tenant (less any outstanding bank charges, including any charges payable on closure of the Account) on the earlier of:

- (a) One month from the date on which the Tenant yields up the Property to the Landlord with vacant possession following the expiry or sooner determination of the Term; or
- (b) 20 Working Days from the date the Landlord receives written notice of a Lawful Assignment of the Lease by the Tenant;

7.2 The Landlord shall be entitled to retain from the Deposit as much of the Deposit as may in the Landlord's reasonable opinion be reasonably necessary to make good any Default.

7.3 Where the Deposit is paid to the Tenant pursuant to clause 7.1(b), the Landlord shall be entitled to retain from the Deposit as much of the Deposit as may be reasonably necessary to make good any Default that occurred prior to the date of Lawful Assignment.

8 Sale of Reversion

8.1 The Tenant agrees that the Landlord may assign the benefit of this deed simultaneously with the assignment of the reversion to the Lease and the Landlord shall transfer the Deposit to its successor.

8.2 The Tenant shall not unreasonably withhold consent to a request made by the Landlord under section 8 of the Landlord and Tenant (Covenants) Act 1995 for a release from all or any of the covenants in this deed falling to be complied with by the Landlord.

9 Costs

9.1 On completion of this deed the Tenant shall pay the reasonable costs and disbursements of the Landlord's solicitors and its managing agents in connection with this deed. This obligation extends to costs and disbursements assessed on a full indemnity basis and to any VAT in respect of those costs and disbursements except to the extent that the Landlord is able to recover such VAT.

10 The Right of Re-entry in the Lease

10.1 The right of re-entry in the Lease shall be exercisable if any covenant or condition contained in this deed falling to be complied with by the Tenant is breached, as well as if any of the events stated in the provision for re-entry in the Lease occur.

11 Indemnity

11.1 The Tenant shall make good to the Landlord on demand, and indemnify the Landlord against, all liabilities, costs, expenses, damages and losses suffered or incurred by the Landlord arising out of or in connection with any breach of the terms of this deed.

12 Notices

12.1 Any notice given under or in connection with this deed must be in writing and must be delivered by hand, or sent by pre-paid first class post or other next working day delivery service or by any other means permitted by the Lease. A correctly addressed notice delivered by hand shall be deemed to have been delivered at the time the notice is left at the proper address. A correctly addressed notice sent by pre-paid first class post or other next working day delivery service shall be deemed to have been delivered on the [second] Working Day after posting.

13 Third Party Rights

- 13.1 A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

14 Governing law

- 14.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

15 Jurisdiction

- 15.1 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by **Christopher Francis Russell Purchase** in the presence of :

.....

.....

Christopher Francis Russell Purchase

Name:

Address:

Occupation:

Executed as a deed by **The Sussex Food Co. Limited** acting by Nicholas Sutherland a director and Timothy Vaughan a director



Nicholas Sutherland



Timothy Vaughan