

**DATED** 28 June **2017**

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**LOAN AGREEMENT**

**between**

**REAL GOOD FOOD PLC**

**and**

**NAPIER BROWN HOLDINGS LIMITED**

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THIS AGREEMENT is dated

28 June

2017

## PARTIES

- (1) **REAL GOOD FOOD PLC** a public limited company, incorporated and registered in England and Wales with company number 04666282 whose registered office is at 1 St. Katharines Way, London E1W 1XB (**Borrower**).
- (2) **NAPIER BROWN HOLDINGS LIMITED** a private limited company, incorporated and registered in England and Wales with company number 00200917 whose registered office is at International House, 1 St. Katharines Way, London E1W 1XB (**Lender**).

## AGREED TERMS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 The following definitions apply in this agreement.

**Availability Period:** the period from and including the date of this agreement to and including the date which is 30 days thereafter.

**Business Day:** a day other than a Saturday, Sunday or a public holiday in England when banks in London are open for business.

**Debenture:** the debenture in the agreed form executed, or to be executed, by the Borrower.

**Event of Default:** any event or circumstance listed in clause 9.

**Facility:** the term loan facility made available under this agreement.

**Final Repayment Date:** the earlier of the date specified in clause 6.1 and the date of the first anniversary of this agreement.

**Finance Document:** this agreement, the Debenture and any other document designated as such by the Lender and the Borrower.

**Fund Raise:** any facility, loan note, loan, equity fund raise or allotment of shares in the Borrower after the date hereof, where the aggregate monies raised exceeds £11,000,000.

**Indebtedness:** any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint and any guarantee or Indemnity of any of those obligations.

**Lender's Account:** the account in the name of the Lender as notified in writing to the Borrower from time to time by the Lender.

**Loan:** a loan made or to be made by the Lender to the Borrower under this agreement or the principal amount outstanding for the time being of that loan.

**Sterling and £:** the lawful currency of the United Kingdom.

**Total Facility Amount:** the maximum principal amount of the Facility referred to in clause 2.

1.2 In this agreement:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this agreement;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of any person (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (e) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (f) a reference to **writing** or **written** includes fax and email;
- (g) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (h) a reference to a **Finance Document** (or any provision of it) or to any other agreement or document referred to in this agreement should be construed as references to this agreement as in force from time to time;
- (i) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this agreement and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (j) 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;
- (k) a reference to a document in **agreed form** is to that document in the form agreed by the Lender and the Borrower and initialled by or on their behalf for identification;
- (l) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (m) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (n) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (o) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived.

The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

**2. THE FACILITY**

The Lender grants to the Borrower a secured Sterling term loan facility of a total principal amount not exceeding £2,000,000 (two million pounds) on the terms, and subject to the conditions, of this agreement.

**3. PURPOSE**

3.1 The Borrower shall use all money borrowed under this agreement for working capital purposes and in payment of outstanding creditors as agreed by the parties.

3.2 The Lender is not obliged to monitor or verify how any amount advanced under this agreement is used.

**4. DRAWDOWN**

4.1 The Borrower hereby notifies the Lender of its intention to draw down the Loan in a sum equal to the Total Facility Amount, which the Lender acknowledges and accepts will be made available on the date of this agreement.

4.2 Any amount of the Facility not drawn down during the Availability Period will automatically be cancelled.

**5. INTEREST**

5.1 The Borrower shall pay interest on the Loan at the rate equal to 6.5% per annum.

5.2 Interest shall accrue daily and compound annually and shall be paid on the date on which the Loan is repaid or due to be repaid under the provisions of clause 6.

5.3 If the Borrower fails to make any payment due under this agreement on the due date for payment, interest on the unpaid amount shall accrue daily, from the date of non-payment to the date of actual payment (both before and after judgment), at 3% above the rate specified in clause 5.1.

**6. REPAYMENT**

- 6.1 The Lender shall be entitled to serve not less than 6 months' notice in writing upon the Borrower requiring the repayment of up to 100% of the Loan, such that upon the expiry of such valid notice the sum notified shall be immediately payable by the Borrower to the Lender.
- 6.2 The Borrower shall be entitled to repay some or all of the Loan prior to any repayment date, subject to providing the Lender with advance notice in writing prior to such payment.
- 6.3 The repayment by the Borrower of any balance of the Loan (plus any accrued interest payable pursuant to clause 5.1) to the Lender, shall be made on the earlier of:
- (a) the Final Repayment Date; and
  - (b) completion of a Fund Raise.
- 6.4 Any repayment under this clause 6 shall be subject to the Board of the Borrower being satisfied that there is sufficient free cash within the Borrower to make such payments from credit balances and for the Borrower and its subsidiaries to continue trading for a period of not less than twelve months after the date on which any such payment is made. For the avoidance of doubt, notwithstanding any other provision of this agreement, the Loan (together with any interest thereon) shall not be due for repayment in whole or in part unless and until this condition is satisfied.

**7. PAYMENTS**

- 7.1 All payments made by the Borrower under this agreement shall be in Sterling and in immediately available cleared funds to the Lender at the Lender's Account or such other account as the Lender may notify the Borrower.
- 7.2 If any payment becomes due on a day which is not a Business Day, the due date of such payment will be extended to the next succeeding Business Day, or if that Business Day falls in the following calendar month, such due date shall be the immediately preceding Business Day.

**8. REPRESENTATIONS AND WARRANTIES**

The Borrower makes the representations and warranties in clause 8.1 to the Lender on the date of this agreement.

**8.1 The Borrower:**

- (a) is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation;

- (b) has the power to own its assets and carry on its business as it is being conducted;
- (c) The Borrower has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Finance Documents and the transactions contemplated by them; and
- (d) No limit on its powers will be exceeded as a result of the borrowing or grant of security contemplated by the Finance Documents.

## **9. EVENTS OF DEFAULT**

**9.1** Each of the events or circumstances set out in this clause 9.1 is an Event of Default namely:

- (a) the Borrower fails to pay any sum due under this agreement within 10 days of its due date;
- (b) the Borrower fails (other than by failing to pay), to comply with any provision of this agreement and (if the Lender considers, acting reasonably, that the default is capable of remedy), such default is not remedied within 30 Business Days of the earlier of:
  - (i) the Lender notifying the Borrower of the default and the remedy required; and
  - (ii) the Borrower becoming aware of the default;
- (c) any representation, warranty or statement made, repeated or deemed made by the Borrower in, or pursuant to, this agreement is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made, repeated or deemed made;
- (d) the Borrower stops or suspends payment of any of its debts, or is unable to, or admits its inability to, pay its debts as they fall due;
- (e) a moratorium is declared in respect of any indebtedness of the Borrower;
- (f) any action, proceedings or procedure is taken for:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower; or
  - (ii) the composition, compromise, assignment or arrangement with any creditor; or
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, manager or other similar officer in respect of the Borrower or any of its assets;

- (g) the Borrower commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties);
- (h) a distress, attachment, execution, expropriation, sequestration or another analagous legal process is levied, enforced or sued out on, or against, the Borrower's assets having an aggregate value of £3,000,000 (or its equivalent in other currencies) and is not discharged or stayed within 30 days;
- (i) any provision of this agreement is or becomes, for any reason, invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect;
- (j) the Borrower, without the Lender's consent, grants a debenture or other legal charge over the Borrower's assets to a third party lender; and/or
- (k) any event occurs in relation to the Borrower similar to those in clauses 9.1(a) to (j) (inclusive) under the laws of any applicable jurisdiction.

9.2 At any time after an Event of Default has occurred which is continuing, the Lender may, by notice to the Borrower:

- (a) cancel all outstanding obligations of the Lender under this agreement whereupon they shall immediately be cancelled; or
- (b) declare that the Loan (and all accrued interest and all other amounts accrued or outstanding under this agreement) is immediately due and payable, whereupon they shall become immediately due and payable.

## 10. ASSIGNMENT AND TRANSFER

Neither party may assign any of its rights or transfer any of its rights and obligations under this agreement without the written consent of the other.

## 11. CALCULATIONS AND CERTIFICATES

11.1 Any interest under this agreement shall accrue on a day-to-day basis, calculated according to the number of actual days elapsed and a year of 365 days.

11.2 If the Lender issues any certificate, determination or notification of a rate or any amount payable under this agreement, it shall be conclusive evidence (in the absence of manifest error) of the matter to which it relates and shall contain reasonable details of the basis of determination.



**12. AMENDMENTS, WAIVERS AND CONSENTS**

- 12.1 Any amendment to any Finance Document shall be in writing and signed by, or on behalf of, each party.
- 12.2 Any waiver of any right or remedy or any consent given under any Finance Document is only effective if it is in writing and signed by the waiving or consenting party. It shall apply only in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 12.3 No delay or failure to exercise any right or remedy on the part of the Lender under this agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this agreement. No election to affirm any Finance Document on the part of the Lender shall be effective unless it is in writing.
- 12.4 No single or partial exercise of any right or remedy under any Finance Document by the Lender shall prevent any further or other exercise or the exercise of any other right or remedy under this agreement or the Debenture.
- 12.5 Rights and remedies under this agreement are cumulative and do not exclude any other rights or remedies provided by law or otherwise.

**13. SEVERANCE**

If any provision (or part of a provision) of any Finance Document is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of the relevant Finance Document.

**14. COUNTERPARTS**

Each Finance Document may be executed and delivered in any number of counterparts, each of which is an original and which, together, have the same effect as if each party had signed the same document.

**15. THIRD PARTY RIGHTS**

A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this agreement.

**16. NOTICES**

**16.1 Any notice or other communication given to a party under or in connection with any Finance Document shall be:**

- (a) in writing;**
- (b) delivered by hand by pre-paid first-class post or other next working day delivery service or sent by fax; and**
- (c) sent to:**
  - (i) to the Borrower at:**  
its registered office  
Attention: Peter Salter
  - (ii) to the Lender at:**  
its registered office  
Attention: Anthony Ridgwell

or to any other address or fax number as is notified in writing by one party to the other from time to time.

**17. GOVERNING LAW AND JURISDICTION**

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

**17.2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) that arises out of or in connection with this agreement or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.**

**This agreement has been entered into on the date stated at the beginning of it.**

DAVID NEWMAN

Signed by Peter Gater  
For and on behalf of REAL GOOD  
FOOD PLC

  
.....  
Director

Signed by Anthony Ridgwell  
For and on behalf of NAPIER BROWN  
HOLDINGS LIMITED

  
.....  
Director

