



Registration of a Charge

Company name: **MELBOURNE HOLDINGS LIMITED**

Company number: **01437478**



X87T2DG4

Received for Electronic Filing: **17/06/2019**

Details of Charge

Date of creation: **10/06/2019**

Charge code: **0143 7478 0016**

Persons entitled: **HURLINGHAM ESTATES LIMITED**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS HURLINGHAM BUSINESS PARK, FULBECK HEATH, GRANTHAM, LINCOLNSHIRE NG32 3HL AS CONVEYED BY A CONVEYANCE DATED 22 SEPTEMBER 1989 BY POSTEL PROPERTIES LIMITED IN FAVOUR OF HURLINGHAM ESTATES LIMITED.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

CMS CAMERON MCKENNA NABARRO OLSWANG LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1437478

Charge code: 0143 7478 0016

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th June 2019 and created by MELBOURNE HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th June 2019 .

Given at Companies House, Cardiff on 18th June 2019

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATE: 10 June 2019

LEGAL CHARGE

Between

MELBOURNE HOLDINGS LIMITED

and

HURLINGHAM ESTATES LIMITED

CERTIFIED TRUE COPY OF THE ORIGINAL
CMS Cameron McKenna Nabarro Olswang LLP
Saltire Court
20 Castle Terrace
Edinburgh
EH1 2EN


Solicitor

10 June 2019

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF
T +44 20 7367 3000
F +44 20 7367 2000
cms.law

TABLE OF CONTENTS

1.	Definitions.....	1
2.	Interpretation	3
3.	Charge	3
4.	Buyer's covenants	3
5.	Default.....	5
6.	Receiver.....	5
7.	Protection of third parties.....	7
8.	VAT.....	7
9.	Miscellaneous.....	7

10 June

THIS AGREEMENT is made on ~~[insert day and month]~~ 2019

PARTIES:

- (1) **MELBOURNE HOLDINGS LIMITED** (incorporated and registered in England and Wales under company registration number 01437478), the registered office of which is at Station Road, Heckington, Sleaford, Lincolnshire NG34 9NF (the “**Buyer**”); and
- (2) **HURLINGHAM ESTATES LIMITED** (incorporated and registered in England and Wales under company registration number 02247773), the registered office of which is at Hurlingham Business Park, Fulbeck Heath, Grantham, Lincolnshire NG32 3HL (the “**Seller**”).

1. DEFINITIONS

In this Legal Charge the following definitions apply:

“**1925 Act**” Law of Property Act 1925;

“**Competent Authority**” any local authority highway authority or other authority or body exercising powers under statute or by royal charter or any utility service or supply company or body;

“**Costs**” all costs, charges, expenses and liability on a full and unlimited indemnity basis incurred by the Seller (including without limitation all legal and other professional costs, charges and expenses) in and incidental to and in contemplation of:

- (a) the protection, preservation, realisation and enforcement of this security;
- (b) the obligations owed to the Seller under this Deed;
- (c) the collection or recovery of any money owing under this Deed;
- (d) the taking of legal proceedings in respect of any of the above.

“**Deferred Consideration**” the two payments of (i) £500,000 due on the date falling 6 months after the date of the Sale Contract and (ii) £500,000 due on the date falling 12 months after the date of the Sale Contract, all as more particularly specified at Clause 12 of the Sale Contract;

“**Event of Default**” means the Buyer will be in default if it has not remedied in all material respects:

- (a) a breach of its obligation to pay the Deferred Consideration to the Seller pursuant to the Sale Contract on the due date;
- (b) a substantial breach of its obligations in this Legal Charge after the expiry of notice from the Seller allowing a reasonable time in which to remedy such breach;

“**Event of Insolvency**” means the Buyer:

- (i) goes into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation of a solvent company forthwith carried into effect);
- (ii) is deemed unable to pay its debts as defined in section 123 of the Insolvency Act 1986;
- (iii) has a receiver, manager or administrative receiver or provisional liquidator or administrator appointed;

- (iv) makes or suffers to be made a proposal for a voluntary arrangement under Part I of the Insolvency Act 1986 or for a compromise or arrangement under Part 26 of the Companies Act 2006 in relation to it;
- (v) presents or suffers to be presented an application for an administration order in relation to it; or
- (vi) is removed from the Register of Companies;

"Interest" interest at the rate of 4% above the base rate of Lloyds Bank plc from time to time accruing on a daily basis and compounded quarterly and payable both before and after any demand or judgment;

"Property" the freehold property known as Hurlingham Business Park, Fulbeck Heath, Grantham, Lincolnshire NG32 3HL as conveyed by a conveyance dated 22 September 1989 by Postel Properties Limited in favour of the Seller;

"Receiver" the receiver appointed in accordance with clause 6 which expression where the context so admits includes the plural and any substituted receiver and manager or receivers and managers;

"Sale Contract" the contract dated the date hereof between the Seller and the Buyer in terms of which the Seller agreed to sell the Property to the Buyer and that on the terms and conditions more particularly specified therein, including the Deferred Consideration;

"Secured Amounts" all of the following:

- (a) the Deferred Consideration;
- (b) all other money and liabilities now or at any time hereafter due or owing from the Buyer to the Seller pursuant to the Sale Contract and this Deed (including without limitation all Costs) and the payment of Interest thereon;

"Statutory Agreement" all or any of the following as the case may be:

- (a) an Agreement in respect of and affecting the Property (whether or not also affecting other property) pursuant to section 33 of the Local Government (Miscellaneous Provisions) Act 1982, section 111 of the Local Government Act 1972, sections 38 or 278 of the Highways Act 1980 or section 104 of the Water Industry Act 1991 or any provision to a similar intent;
- (b) an agreement with a water undertaker or drainage undertaker (within the meaning of the Water Industry Act 1991) or the Environment Agency or an Internal Drainage Board within the meaning of the Water Resources Act 1991 or the Land Drainage Act 1991 (or other appropriate authority as to water supply or drainage surface and/or foul water from the Property);
- (c) an agreement with any Competent Authority relating to other services;
- (d) a planning obligation whether entered into by agreement or otherwise in respect of and affecting the Site (whether or not also affecting other properties) pursuant to section 106 of the Planning Act;

"Trigger Event" has the meaning given in the schedule;

"Statutory Requirements" the requirements of any Act of Parliament or any regulation or byelaw of any Competent Authority or government department or any other body exercising powers under statute or by Royal Charter;

“Working Day” means any day other than Saturday, Sunday and any Bank or Public Holiday.

2. INTERPRETATION

- 2.1 The expressions 'Seller' and 'Buyer' include their respective successors in title.
- 2.2 Where any party comprises more than one person their obligations under this deed can be enforced against them all jointly or against each of them individually.
- 2.3 Any obligation of a party to do an act or thing includes an obligation to procure that it be done and any obligation not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done by any person under its control.
- 2.4 Unless otherwise specified, a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated, or re-enacted from time to time and includes any instrument, order, regulation, permission, consent, licence, notice, direction, byelaw, statutory guidance or code of practice made or granted under such legislation.
- 2.5 Clause headings are for reference only and do not affect the construction of this deed.
- 2.6 Any reference to a clause, paragraph or schedule is to a clause, paragraph or schedule in this deed.
- 2.7 Where the words 'includes', 'including' or 'in particular' are used in this deed they are deemed to have the words 'without limitation' following them.

3. CHARGE

- 3.1 The Buyer with full title guarantee charges the Property by way of legal mortgage as a continuing security for the payment or discharge of the Secured Amounts.
- 3.2 This Legal Charge shall remain in full force and effect as a continuing security unless and until the Seller discharges it and shall extend to cover the ultimate balance due from the Buyer to the Seller.
- 3.3 When the Buyer has paid all Secured Amounts the Seller will at the request of the Buyer duly discharge this security.

4. BUYER'S COVENANTS

The Buyer covenants with the Seller:

- 4.1 Secured amounts
 - 4.1.1 To pay and discharge the Secured Amounts as and when they fall due.
 - 4.1.2 To pay Interest on any amount which is not paid under this Deed from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full.
- 4.2 Leases

Not to exercise any of the powers conferred on the Buyer by section 99 of the 1925 Act or otherwise create any tenancy or lease or part with or share the possession or occupation of or confer upon any person a contractual licence, right or interest to occupy the whole or any part of the Property.
- 4.3 Incumbrances

Not to create nor permit any incumbrance or further mortgage or charge upon the Property without the previous written consent of the Seller.

4.4 Repair

To keep all buildings and works on the Property (whether completed or in the course of construction) in good and substantial repair and condition and in the event of a breach of this obligation:

4.4.1 to permit the Seller and its representatives to enter upon the Property at any time and execute such remedial works as the Seller considers to be necessary and proper without the Seller there-by becoming liable as mortgagee in possession;

4.4.2 on demand to repay to the Seller all costs and expenses incurred by the Seller in undertaking such remedial works together with Interest from the date when the Seller incurred the same until repayment by the Seller.

4.5 Insurance

4.5.1 To insure or procure that the buildings and works on the Property (whether completed or in the course of construction) are kept insured in their full reinstatement value from time to time and any professional fees which may be incurred in or about repair, rebuilding or reinstatement) against loss or damage by such risks as are covered:

(a) in respect of any buildings or works under construction: under a contractor's all risks insurance policy; or

(b) in respect of completed buildings and works: under a comprehensive insurance policy for buildings or works of a similar nature

in such name or names and with such underwriters as the Seller may in each case and from time to time reasonably require and to pay the premiums as and when they become due and when requested to deliver to the Seller a copy of the policy of insurance and the receipt for each premium.

4.5.2 If the Buyer fails to perform any of its obligations under this sub-clause the Seller may effect such insurance on the Property as the Seller considers appropriate and the Buyer will on demand repay to the Seller all payments made by it for that purpose together with Interest from the date when the Seller incurred the same until repayment by the Seller.

4.5.3 Any money received under any policy of insurance effected or maintained by the Buyer will at the option of the Seller be applied either in making good the loss or damage in respect of which it was received or in or towards discharge of the Secured Amounts and if received by the Buyer will be held on trust for the Seller for this purpose.

4.6 Rates etc

Punctually to pay and indemnify the Seller against all rents, rates, taxes, levies, assessments, impositions and outgoings whatsoever (whether governmental, municipal contractual or otherwise) which may be or may become imposed upon or payable in respect of the Property or any part of it.

4.7 Statutory requirements

To comply with all Statutory Requirements for the time being in force applicable to the Property.

4.8 Restrictive covenants

To observe and perform the restrictive and other covenants and stipulations (if any) affecting the Property.

4.9 Restriction

The Buyer covenants with the Seller that during the continuance of this security the Buyer will not (without the prior written consent of the Seller) create or agree to create or permit to subsist any mortgage or other fixed charge or other security of any kind over the Property and hereby requests the Land Registrar to enter the following restriction into the register in favour of the Seller:

"No Disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated ^{10 June 2019} ~~insert date~~ in favour of Hurlingham Estates Limited of Hurlingham Business Park, Fulbeck Heath, Grantham, Lincolnshire NG32 3HL as referred to in the charges register"

5. **DEFAULT**

5.1 Section 103 of the 1925 Act does not apply to this Deed and the statutory powers of sale and appointing a receiver under sections 101 and 109 of the 1925 Act (as varied and extended under this Deed) will arise on the execution of this Deed.

5.2 The Secured Amounts will become immediately payable upon:

5.2.1 the happening of an Event of Default; or

5.2.2 the happening of an Event of Insolvency; or

5.2.3 the holder of the Prior Charge taking any steps to enforce the Prior Charge or to demand money secured by it,

and at any time thereafter the Seller may in addition to any other remedies available to him:

5.2.4 exercise all the statutory powers conferred on mortgagees by the 1925 Act free from the restriction imposed by section 103 of the 1925 Act; and

5.2.5 appoint a Receiver (subject to the requirements of general law) to be receiver and manager of all or any part of the Property and for the Receiver to exercise the powers set out in clause 6.

5.3 If the Seller takes possession of the Property or causes a Receiver to be appointed in exercise of such statutory powers the Seller or such Receiver (in addition to his statutory powers) may eject from the Property the Buyer or any tenants of the Buyer or other persons at or in possession of the Property.

6. **RECEIVER**

6.1 At any time after this security becomes enforceable, or at the request of the Buyer, the Seller may by writing, under hand, appoint any person or persons to be a Receiver of all or any part of the Property.

6.2 The Seller may at any time and from time to time in like manner remove any Receiver so appointed and appoint another in his place or appoint an additional person as Receiver.

- 6.3 The Seller may, either at the time of appointment or at any time subsequently and from time to time, fix the remuneration of any Receiver so appointed.
- 6.4 None of the restrictions imposed by the 1925 Act in relation to the appointment of Receivers or as to the giving of notice or otherwise will apply.
- 6.5 Where more than one Receiver is appointed they will have the power to act severally.
- 6.6 Any Receiver so appointed will be the agent of the Buyer for all purposes and the Buyer will be solely responsible for his acts or defaults and for his remuneration.
- 6.7 Any Receiver so appointed will have all the powers conferred on mortgagees or receivers by the 1925 Act (but without the restrictions contained in section 103 of that Act) except to the extent to which those powers are expressly or impliedly excluded by the terms of this Deed. In the event of ambiguity or conflict the terms of this Deed will prevail.
- 6.8 Any Receiver so appointed will have power, to such extent and upon such terms as he may in his absolute discretion think fit and notwithstanding any Event of Insolvency or death in relation to the Buyer, to do or omit to do anything which the Buyer could do or omit to do in relation to all or any part of the Property. In particular (but without limitation) any such Receiver will have the power:
- 6.9
- 6.9.1 to take possession of, collect and get in all or any part of the Property and for that purpose to bring any proceedings in the name of the Buyer or otherwise;
 - 6.9.2 to manage or carry on or concur in carrying on any business of the Buyer;
 - 6.9.3 to raise or borrow money (whether from the Seller or otherwise) to rank for payment in priority to this security and with or without a charge on all or any part of the Property;
 - 6.9.4 to sell (whether by public auction or private contract or otherwise), lease, vary, renew or surrender leases or accept surrenders of leases (without needing to observe the provisions of sections 99 and 100 of the 1925 Act) of, or otherwise dispose of or deal with all or any part of, the Property or of rights associated with all or any part of the Property or to concur in so doing whether in the name or on behalf of the Buyer or otherwise;
 - 6.9.5 to seize and sever all or any fixtures at or in the Property other than and except trade machinery as defined by the Bills of Sale Act 1878 and sell the same separately from the Property or its site;
 - 6.9.6 to settle, arrange, compromise or submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with any business of the Buyer or the Property or in any way relating to this security;
 - 6.9.7 to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever whether civil or criminal in relation to the matters referred to in clause 6.9.13;
 - 6.9.8 to disclaim, abandon or disregard all or any outstanding contracts of the Buyer and to allow time for payment of any debts either with or without security;
 - 6.9.9 to repair, insure, manage, protect, improve, enlarge, develop, build, complete or re-construct or replace all or any part of the Property and to apply for and obtain any appropriate permissions, approvals, consents or licences;

- 6.9.10 to acquire by purchase, lease or otherwise any further property assets or rights;
 - 6.9.11 to appoint, employ and dismiss managers, officers, contractors and agents;
 - 6.9.12 to elect to waive exemption under the Value Added Tax Act 1994, Schedule 10 paragraph 2(1) on behalf of the Buyer in respect of the Property;
 - 6.9.13 to do (whether in the name of the Buyer or otherwise) all such other acts and things as he may consider necessary or desirable for the protection, preservation, management, improvement or realisation of the Property or as he may consider incidental or conducive to any of the above matters or to the exercise of any of the above powers.
- 6.10 All money received by any Receiver must be applied by him:
- 6.10.1 in payment of the costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him (including preferential debts);
 - 6.10.2 in payment to the Receiver of such remuneration as may be agreed between him and the Seller at, or at any time and from time to time after, his appointment;
 - 6.10.3 in or towards satisfaction of the Secured Amounts,
- and the surplus (if any) must be paid to the Buyer or other persons entitled to it.

7. PROTECTION OF THIRD PARTIES

No person dealing with the Seller or any Receiver appointed by him is to be concerned, bound or entitled to enquire or be affected by notice as to any of the following matters:

- 7.1 whether this security has become enforceable;
- 7.2 whether any power exercised or purported to be exercised under this Deed has arisen or become exercisable;
- 7.3 the propriety, regularity or purpose of the exercise or purported exercise of any such power;
- 7.4 whether any money remains due under the security; or
- 7.5 the necessity or expediency of the stipulations and conditions subject to which any disposition is made,

and the receipt of the Seller or any Receiver for any money will effectually discharge the person paying from such matters and from being concerned to see to the application or being answerable for the loss or misapplication of such money.

8. VAT

All sums payable under this Deed are exclusive of VAT. Accordingly the Buyer will in addition pay any VAT chargeable or payable in respect of the Secured Amounts or otherwise pursuant to this Deed.

9. MISCELLANEOUS

- 9.1 Section 93 of the 1925 Act (restricting the right of consolidation) does not apply to this Deed.
- 9.2 The Seller may at any time or times without discharging or diminishing or in any way prejudicing or affecting this security or any right or remedy of the Seller under this mortgage grant to the Buyer, or to any other person, time or indulgence, further credit, loans or advances or enter into

any arrangement or variation of rights or, either in whole or in part, release, abstain from perfecting or enforcing or neglect or fail to perfect or enforce any remedies, securities, guarantees or rights which he may now or subsequently have from or against the Buyer or any other person.

- 9.3 Each of the provisions of this Deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions will not be affected or impaired. This deed has today been executed by the parties.

THIS AGREEMENT has been executed and delivered as a deed on the date written at the beginning of it.

Executed as a deed by Melbourne Holdings Limited acting by a director) [REDACTED]
In the presence of	KATHRINE JANE THOMAS .
Witness signature:	[REDACTED]
Name (in BLOCK CAPITALS):	
Address:	C/O MELBOURNE HOLDINGS LTD.
	STATION ROAD, HECKINGTON,
	LINCS NG134 9NF.
Executed as a deed by Hurlingham Estates Limited acting by a director)
In the presence of	
Witness signature:)
Name (in BLOCK CAPITALS):	
Address:	

any arrangement or variation of rights or, either in whole or in part, release, abstain from perfecting or enforcing or neglect or fail to perfect or enforce any remedies, securities, guarantees or rights which he may now or subsequently have from or against the Buyer or any other person.

- 9.3 Each of the provisions of this Deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions will not be affected or impaired. This deed has today been executed by the parties.

THIS AGREEMENT has been executed and delivered as a deed on the date written at the beginning of it.

Executed as a deed by Melbourne Holdings Limited acting by a director)
In the presence of	
Witness signature:)
Name (in BLOCK CAPITALS):	
Address:	
Executed as a deed by Hurlingham Estates Limited acting by a director)
In the presence of	
Witness signature:)
Name (in BLOCK CAPITALS):	RACHEL BEBB
Address:	33 Church Street
	Sharnburn Leics
	BB7 3GR