



Registration of a Charge

Company Name: **MEININGER HOTELS LIMITED**

Company Number: **08895474**



Received for filing in Electronic Format on the: **30/04/2021**

XA3HCHNL

Details of Charge

Date of creation: **22/04/2021**

Charge code: **0889 5474 0024**

Persons entitled: **MADISON PACIFIC TRUST LIMITED AS SECURITY AGENT**

Brief description:

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: **TILLY KERSLEY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8895474

Charge code: 0889 5474 0024

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd April 2021 and created by MEININGER HOTELS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th April 2021 .

Given at Companies House, Cardiff on 4th May 2021

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**

I certify that this is a true copy (subject only to certain permitted redactions).

EXECUTION VERSION

TILLY KERSLEY
KIRKLAND & ELLIS
INTERNATIONAL LLP

Date: 22 April, 2021

THIRD CONFIRMATORY SHARE CHARGE

between

MEININGER HOTELS LIMITED

as Chargor

and

MADISON PACIFIC TRUST LIMITED

as Security Agent

KIRKLAND & ELLIS
凱易律師事務所

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THIS DEED is dated 22 April 2021 and made between:

- (1) **MEININGER HOTELS LIMITED** (the “**Chargor**”); and
- (2) **MADISON PACIFIC TRUST LIMITED** as security trustee and agent for itself and the other Secured Parties (the “**Security Agent**”).

It is agreed as follows:

1 Interpretation

1.1 Definitions

In this Deed:

“**Amendment and Restatement Agreement**” means the amendment and restatement agreement dated on or about the date of this Deed and entered into between, among others, Holidaybreak Limited as borrower and Investment Opportunities IV Pte. Limited and Pedibus Limited as lenders.

“**Amended Facilities Agreement**” means the Original Facilities Agreement as amended and restated pursuant to the Amendment and Restatement Agreement.

“**Charged Property**” means the assets over which Security is expressed to be created pursuant to this Deed;

“**Existing Security Interests**” means all or any of the Security created or expressed to be created in favour of the Security Agent by or pursuant to the Existing Share Charge.

“**Existing Share Charge**” means the Original Share Charge, a confirmatory share charge dated 21 May 2020 and a second confirmatory share charge dated 16 December 2020 between the Chargor and the Security Agent.

“**Intercreditor Agreement**” means an intercreditor agreement to be entered into after the Second Amendment and Restatement Agreement Date between, among others, the finance parties under the New MHL Bank Facility named therein, the Lenders and the Security Agent.

“**Original Facilities Agreement**” means the term loan facilities agreement originally dated 31 January 2019 (as amended and/or restated by an amendment and restatement agreement dated 14 August 2019 and amended by an amendment letter dated 16 January 2020, further amended and restated by an amendment and restatement agreement dated 21 May 2020, further amended and restated by an amendment and restatement agreement dated 16 December 2020 and from time to time) between Holidaybreak Limited as borrower, Meininger Hotels Limited and Mr. Ajay Ajit Peter Kerkar as original guarantors and initial lenders named therein;

“**Original Share Charge**” means a share charge in respect of shares in Meininger Hotel Europe Limited dated 9 December 2019 between the Chargor and the Security Agent.

“Related Rights” means all dividends, distributions and other income paid or payable on a Share, together with all shares or other property derived from any Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Share (whether by way of conversion, redemption, bonus, preference, option or otherwise);

“Security” means a mortgage, charge, pledge, lien, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

“Security Interests” means all or any of the Security created or expressed to be created in favour of the Security Agent by or pursuant to this Deed;

“Secured Obligations” means all present and future Liabilities of the Obligor to the Secured Parties (or any of them) under or in relation to any one or more of the Finance Documents including those obligations and liabilities as they are amended and restated by the Amendment and Restatement Agreement.

“Security Trust Deed” means the security trust deed dated 9 December 2019 between, among others, Holidaybreak Limited and Meininger Hotels Limited as Obligor and Madison Pacific Trust Limited as Security Agent;

“Shares” means, in relation to the Chargor, all its right, title and interest from time to time in and to:

- (a) all shares owned by the Chargor in Meininger Hotel Europe Limited which is incorporated in England and Wales, as at the date of its entry into this Deed and specified in Schedule 1 (*Shares*);
- (b) warrants, options and other rights to subscribe for, purchase or otherwise acquire any such shares;
- (c) any other securities or investments deriving from any such shares or any rights attaching or relating to any such shares,

in each case including any rights against any custodian, nominee, clearing system or other similar person holding any such right, title or interest on its behalf, and all dividends and other Related Rights; and

1.2 Construction

In this Deed, unless a contrary intention appears, a reference to:

- (a) an “agreement” includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an “amendment” includes any amendment, supplement, variation, novation, modification, replacement or restatement and “amend”, “amending” and “amended” shall be construed accordingly;

- (c) “assets” includes present and future properties, revenues and rights of every description;
- (d) “including” means including without limitation and “includes” and “included” shall be construed accordingly;
- (e) “losses” includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and “loss” shall be construed accordingly;
- (f) “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality); and
- (g) “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Other References and Interpretation

- (a) In this Deed, unless a contrary intention appears, a reference to:
 - (i) any Secured Party, Obligor, the Chargor or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person’s (and any subsequent) successors in title, permitted assignees and transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
 - (ii) any Finance Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended, novated, varied, released, supplemented, extended, restated or replaced (in each case, however fundamentally), including by way of increase of the facilities or other obligations or addition of new facilities or other obligations made available under them or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of any Finance Document;
 - (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Deed and any reference to this Deed includes its schedules;
 - (iv) a Default or an Event of Default is “continuing” or “outstanding” pursuant to the Amended Facilities Agreement if it has not been remedied or waived; and
 - (v) a provision of law is a reference to that provision as amended or re-enacted.

- (b) The index to and the headings in this Deed are inserted for convenience only and are to be ignored in construing this Deed.
- (c) Words importing the plural shall include the singular and vice versa.
- (d) Unless otherwise defined in this Deed, words and expressions defined in the Amended Facilities Agreement shall have the same meanings when used in this Deed. In the event of any conflict or inconsistency between the terms of this Deed and the terms of the Amended Facilities Agreement, the terms of the Amended Facilities Agreement will prevail.
- (e) This is a Finance Document and a Security Document for the purpose of the Amended Facilities Agreement and/or the Security Trust Deed.
- (f) The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.
- (g) Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts created by this Deed or any other Finance Document.
- (h) This Deed is intended to take effect as a deed notwithstanding that the Security Agent has executed it under hand only.
- (i) Notwithstanding any other provision of this Deed, the Security constituted in relation to the trusts created by this Deed and the exercise of any right or remedy by the Security Agent hereunder shall be subject to the Amended Facilities Agreement, the Intercreditor Agreement and the Security Trust Deed.
- (j) If an amount paid to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purpose of this Deed.
- (k) Unless stated otherwise, a reference to an act of the Security Agent is a reference to an act of the Security Agent acting on the instructions of the Majority Lenders.

1.4 Third party rights

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”), to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to the provisions of the Third Parties Act.

1.5 The Security Agent

- (a) The Security Agent executes this Deed as security agent in the exercise of the powers and authority conferred and vested in it under the Security Trust Deed and any other Finance Document for and on behalf of the Secured Parties for whom it acts. It will exercise its powers and authority under this Deed in the manner provided for in the Security Trust Deed and, in so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Security Trust Deed and the other Finance Documents. In the event of any inconsistency between this Deed and the Security Trust Deed in connection with the rights of the Security Agent, the Security Trust Deed shall prevail.

2 Covenant to Pay

2.1 Covenant to Pay

The Chargor covenants, as primary obligor and not only as surety, with the Security Agent (for the benefit of itself and the other Secured Parties) that it will pay and discharge each of the Secured Obligations on their due date in accordance with their respective terms (or if they do not specify a time for payment, promptly on prior written demand of the Security Agent).

2.2 Demands

The making of one demand under this Deed will not preclude the Security Agent from making any further demands.

2.3 Right to prove

For the avoidance of doubt the Security Agent shall have the right to prove or make a claim against the Chargor for the full amount of the Secured Obligations and all costs and expenses pursuant to the Amended Facilities Agreement, the Intercreditor Agreement and the Security Trust Deed.

3 Confirmation of Existing Security Interests and Charging Provisions

3.1 Confirmation

- (a) Notwithstanding:
 - (i) any amendment, restatement, substitution and/or extension made to the Original Facilities Agreement pursuant to the Amendment and Restatement Agreement; and

- (ii) any new Security created pursuant to this Deed,

the Chargor confirms that the Existing Security Interests shall extend to the obligations of the Obligors under the Finance Documents (including the Amendment and Restatement Agreement and the Amended Facilities Agreement) and continue to secure payment and discharge of all Secured Obligations.

- (b) For the avoidance of doubt, the Existing Share Charge will remain in full force and effect.

3.2 Fixed Security

- (a) Subject to paragraphs (b) and (c) below, the Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Security Agent by way of first fixed charge and with full title guarantee all of the Shares.
- (b) The Security Interests created under this Deed are created in addition to, and do not affect the Existing Security Interests.
- (c) Where this Deed purports to create a first fixed charge in respect of certain Charged Property over which Existing Security Interests have been, or are purported to be, created, those Security Interests created by this Deed will be fourth ranking, ranking subject only to any equivalent Existing Security Interests over the same Charged Property, until such time as those equivalent Existing Security Interests cease to have effect or are not enforceable, at which point those Security Interests created by this Deed shall be first ranking in nature.

3.3 Negative Pledge

The Chargor undertakes that it will not create or agree to create or permit to subsist any security on or over the whole or any part of the Charged Property except for the creation of Security or other transactions not prohibited under the Finance Documents.

3.4 Consent to Security

The Security Agent (acting on the instruction of the Majority Lenders) consents to the charge granted by the Chargor pursuant to Clause 3.2 (*Fixed Security*), notwithstanding Clause 6.3 (*Negative Pledge*) of the Original Share Charge.

3.5 Security Agent

The Security Agent holds the benefit of this Deed on trust for the Secured Parties in accordance with the Security Trust Deed.

4 Incorporation

- 4.1 Subject to Clause 4.2 below, the provisions of Clause 4 (*Protection of Security*) to Clause 11 (*Receivers*), Clause 13 (*Protection of Security Agent and Receiver*) to Clause 20 (*Redemption of Prior Charges*) and Clause 22 (*Stamp duty*) to Clause 27 (*Miscellaneous*) of the Original Share Charge are deemed to be incorporated into this Deed with all necessary modifications as if they were set out in full in this Deed.
- 4.2 The Chargor will as soon as reasonably practicable within three Business Days after the date of this Deed deposit with the Security Agent (or as it shall direct) all share certificates relating to the applicable Shares held by the Chargor on the date of this Deed together with stock transfer forms executed in blank and left undated, to the extent that these have not been provided to the Security Agent pursuant to the Existing Share Charge or the Existing Security Interests cease to have effect or are not enforceable.
- 4.3 Where Shares are acquired by the Chargor after the date of this Deed, the Chargor will on the date of that acquisition deposit with the Security Agent (or as it shall direct) all share certificates relating to the applicable Shares together with stock transfer forms executed in blank and left undated.

5 Application of Proceeds

5.1 Order of Application

All moneys received or recovered by the Security Agent or any Receiver pursuant to this Deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by the Security Trust Deed and Intercreditor Agreement notwithstanding any purported appropriation by the Chargor.

5.2 Section 109 Law of Property Act 1925

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

5.3 Application against Secured Obligations

Subject to Clause 5.1 (*Order of Application*) above, any moneys or other value received or realised by the Security Agent from the Chargor or a Receiver under this Deed may be applied by the Security Agent to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Security Agent may determine.

6 Charge in addition to any other Security

This Deed is in addition to and independent of and shall not affect (or be affected by) any guarantees, indemnities or Security whatsoever which the Security Agent or any other Secured Party may hold now or hereafter for any part of the Secured Obligations (including, for the avoidance of doubt, the Existing Security Interests) and may be enforced without first having recourse to and shall not prejudice or merge with any such guarantee, indemnity or Security.

7 **Governing Law and Jurisdiction**

7.1 Governing Law

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

7.2 Jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or the consequences of its nullity or any non-contractual obligation arising out of or in connection with this Deed (a “**Dispute**”)).

7.3 Convenient Forum

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

7.4 Exclusive Jurisdiction

This Clause 7 (*Governing Law and Jurisdiction*) is for the benefit of the Security Agent only. As a result and notwithstanding Clause 7.2 (*Jurisdiction*) and Clause 7.3 (*Convenient Forum*), it does not prevent the Security Agent from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

In witness whereof this Deed has been duly executed as a deed on the date first above written.

SCHEDULE 1
Shares

Name of company issuing shares	Number and class
Meininger Hotel Europe Limited	1 Ordinary Share

Signatories to Deed

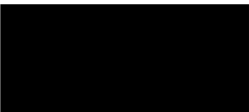
The Chargor

EXECUTED as a **DEED** by)
MEININGER HOTELS LIMITED)
acting by)



Director Ajit Menon

in the presence of:



Name of witness: Bela Menon

Address:


Occupation:



Artist

The Security Agent

SIGNED by)
MADISON PACIFIC TRUST LIMITED)
acting by:)



Authorised Signatory

Cassandra Louise Ho

Notice Details

Address: 54/F Hopewell Centre
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Wan Chai
Hong Kong
Facsimile: +852 2599 9501
Address: David Naphtali
Occupation: Managing Director