



Registration of a Charge

Company name: **MALCOLM PROPERTIES (HOLDINGS) LIMITED**

Company number: **SC283167**



X8Y4RZ9V

Received for Electronic Filing: **04/02/2020**

Details of Charge

Date of creation: **24/01/2020**

Charge code: **SC28 3167 0018**

Persons entitled: **HSBC UK BANK PLC**

Brief description:

Contains fixed charge(s).

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: **SHOOSMITHS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 283167

Charge code: SC28 3167 0018

The Registrar of Companies for Scotland hereby certifies that a charge dated 24th January 2020 and created by MALCOLM PROPERTIES (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th February 2020 .

Given at Companies House, Edinburgh on 4th February 2020

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

(1) MALCOLM PROPERTIES (HOLDINGS) LIMITED

- in favour of -

(2) HSBC UK BANK PLC

ASSIGNATION OF RENTS

relating to

Burnbrae Drive, Paisley

HSBC 

HSBC UK Bank plc

CONTENTS

Clause		Page
1.	DEFINITIONS AND INTERPRETATION	1
2.	ASSIGNATION	3
3.	RECEIPT OF FUNDS	3
4.	NOTICE	3
5.	GRANT OF FURTHER DEEDS	3
6.	CERTIFICATE	4
7.	RETROCESSION	4
8.	EXECUTION, COUNTERPARTS AND DELIVERY	4
9.	WARRANTICE AND CONSENT TO REGISTRATION	5
	SCHEDULE 1	6
	PART 1 THE PROPERTY	6
	PART 2 THE LEASES	7

THIS ASSIGNATION OF RENTS is made BETWEEN:-

- (1) **MALCOLM PROPERTIES (HOLDINGS) LIMITED**, a company incorporated and registered under the laws of Scotland with registered number SC283167 whose registered office is at Brookfield House 2 Burnbrae Drive, Linwood, Paisley, PA3 3BU (the "**Borrower**"); in favour of
- (2) **HSBC UK BANK PLC**, a company incorporated and registered under the laws of England and Wales with registered number 09928412 whose registered office is at 1 Centenary Square, Birmingham, United Kingdom, B1 1HQ as security trustee for the Secured Parties (as defined in the Facility Agreement defined below) (hereinafter together with their successors, assignees and transferees whomsoever being referred to as the "**Security Agent**").

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Assignment of Rents:

"Leases"	means the lease(s) at the Property listed in Part 2 of Schedule 1 as amended, varied, supplemented or the tenants' interest thereunder assigned from time to time
"Property"	means ALL and WHOLE the property specified in Error! Reference source not found. of Schedule 1
"Secured Liabilities "	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document.
"Security"	means the Security Interests created or intended to be created by or pursuant to this Assignment of Rents.
"Security Agent "	means HSBC UK Bank plc as security trustee for the Secured Parties
"Security Agreement"	means the security agreement entered into by the Borrower in favour of the Security Agent on or around the date of this Assignment of Rents
"Security Interest"	means a mortgage, charge, assignment, pledge, lien, standard security, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period beginning on the date of this Assignment of Rents and ending on the date on which the Security Agent is satisfied that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities made available by the Security Agent to the Borrower have been cancelled
"Schedule"	means the schedule annexed to this Assignment of Rents
"Value Added Tax"	means value added tax as provided for in the means the Value Added Tax Act 1994 and any tax similar or equivalent to value added tax or performing a similar fiscal function

1.2 Interpretation

- 1.2.1 Capitalised terms defined in the Facility Agreement have the same meaning in this Assignment of Rents unless expressly defined in this Assignment of Rents.
- 1.2.2 The provisions of clause 1.2 (Construction) of the Facility Agreement apply to this Assignment of Rents as though they were set out in full in this Assignment of Rents except that references to the Facility Agreement will be construed as references to this Assignment of Rents.
- 1.2.3 In the event of any inconsistency between the Facility Agreement and the Assignment of Rents, the provisions of the Facility Agreement will prevail.
- 1.2.4 Unless a contrary indication appears, any reference in this Assignment of Rents to:
- (a) "includes" or "including" shall be read and construed as including the phrase "without limitation";
 - (b) this "Assignment of Rents" or any other agreement or instrument is a reference to this Assignment of Rents, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Borrower's obligations or provides for further advances);
 - (c) a provision of law is a reference to that provision as amended or re-enacted;
 - (d) the singular includes the plural and vice versa;
 - (e) any heritable property includes:
 - (i) all or any part of it;
 - (ii) all buildings, fixtures (including trade fixtures), fittings and fixed plant or machinery at any time on that property;
 - (iii) all servitudes, rights and agreements in respect of that property;
 - (iv) all rents from and proceeds of sale of that property; and
 - (v) the benefit of all covenants given in respect of that property.
- 1.2.5 References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Assignment of Rents.
- 1.2.6 Clause headings are for ease of reference only and shall not affect the construction of this Assignment of Rents.

1.3 Third Party Rights

- 1.3.1 Unless expressly provided in this Assignment of Rents (including in Clause 1.3.3), a person who is not a party to this Assignment of Rents has no right under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise to enforce or to enjoy the benefit of any term of this Assignment of Rents.
- 1.3.2 Notwithstanding any term of this Assignment of Rents, the consent of any person who is not a party to this Assignment of Rents is not required to rescind or vary this Assignment of Rents at any time.
- 1.3.3 Any administrator, Delegate, Receiver, Hedging Counterparty, and any attorney appointed under the Finance Documents may enforce and/or enjoy the benefit of any term of this Assignment of Rents.

2. ASSIGNATION

The Borrower, considering that:-

- 2.1 the Security Agent has granted or is about to grant to the Borrower certain loan facilities;
- 2.2 in respect of the loan facilities, the Borrower has granted or is about to grant to the Security Agent the Security Agreement and Standard Securities over *inter alia* the Property;
- 2.3 the Borrower has agreed to grant these presents as additional security for the whole sums due or to become due under the said loan facilities or otherwise by the Borrower to the Security Agent including without limitation the Secured Liabilities,

assigns to and in favour of the Security Agent its whole right, title and interest in and to the rent and all other monies due and to become due to the Borrower in terms of the Leases, such rent and other monies to include, for the avoidance of doubt and without prejudice to the foregoing generality:

- 2.4 arrears of rent (if any) existing as at the date hereof;
- 2.5 increased rent as may become payable following a review of rent;
- 2.6 any Value Added Tax which is or may become payable under the Leases in respect of rent; and
- 2.7 all interest as may be payable from time to time on such rent under the Leases and any sums payable under the Leases whether by way of service charge, reimbursement of common charges, insurance premiums, management fees or otherwise.

3. RECEIPT OF FUNDS

The rent and others assigned in terms of Clause 1.2 (*Assignment*) are assigned together with the right in favour of the Security Agent to receive the rent and other monies and issue a valid and effective receipt or receipts in respect of the same, which receipt or receipts are hereby declared to be full and sufficient discharge and fully binding upon the Borrower.

4. NOTICE

- 4.1 The Borrower shall give notice in the form specified in Part 2 of the Schedule to each tenant under each Lease that the Borrower has assigned to the Security Agent all its right, title and interest in the Rental Income and other monies payable under that Lease.
- 4.2 The Borrower shall give the notices referred to in Clause 4.1:
 - 4.2.1 in the case of a Lease subsisting at the date of this Assignment of Rents, within 5 Business Days of the date of this Assignment of Rents; and
 - 4.2.2 in the case of a Lease coming into existence of the date of this Assignment of Rents, within 5 Business Days of the Borrower entering into that Lease.
 - 4.2.3 The Chargor shall use reasonable endeavours to procure that the recipient of each notice acknowledges that notice within 5 Business Days of that notice being given.

5. GRANT OF FURTHER DEEDS

The Borrower undertakes that it shall, at the request of the Security Agent but the expense of the Borrower, grant and execute such other deeds and documents and take all such lawful action as may, in the opinion of the Security Agent, be required to enable the Security Agent to obtain possession of, recover and uplift the rent.

6. **CERTIFICATE**

Clause 34.2 (*Certificates and determinations*) of the Facility Agreement shall apply to this Assignment of Rents as if set out here in full but so that references to the Finance Documents shall be construed as references to this Assignment of Rents and any Security created by or under it.

7. **RETROCESSION**

Upon expiry of the Security Period, the Security Agent shall at the request and cost of the Borrower re-assign or retrocess the right to receive the rent and other

8. **EXECUTION, COUNTERPARTS AND DELIVERY**

8.1 This Assignment of Rents may be executed in any number of counterparts and by each of the Parties on separate counterparts.

8.2 Where executed in counterparts:

8.2.1 this Assignment of Rents will not take effect until each of the counterparts has been delivered in accordance with the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "**Counterparts Act**");

8.2.2 each counterpart will be held as undelivered until the Parties agree a date on which the counterparts are to be treated as delivered;

8.2.3 the date of delivery may be inserted on the first page of this agreement in the blank provided for the delivery date; and

8.3 the Parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Assignment of Rents.

9. WARRANTICE AND CONSENT TO REGISTRATION

The Borrower grants warrantice from its own facts and deeds only and consents to the registration hereof for preservation and execution and of any certificate issued in terms of Clause 5 (Certificate) for execution.

IN WITNESS WHEREOF these presents consisting of this and the preceding 4 pages together with the Schedule in 2 parts annexed hereto are executed as follows:-

SUBSCRIBED for and on behalf of
the said MALCOLM PROPERTIES
(HOLDINGS) LIMITED

at Glasgow

on 24 January

by Andrew Malcolm
Print Full Name

Director

before this witness

MERIE MILLER
Print Full Name

Witness

Address

[Redacted Address]

This is the Schedule in 2 parts referred to in the foregoing Assignment of Rents granted by MALCOLM PROPERTIES (HOLDINGS) LIMITED in favour of HSBC UK BANK PLC.

SCHEDULE 1

PART 1 THE PROPERTY

ALL and WHOLE the subjects on the north east side of Burnbrae Drive Paisley being 4.4 hectares in measurement on the ordnance map and registered in the Land Register of Scotland under Title Number REN124458

PART 2 THE LEASES

Lease between Malcolm Properties (Holdings) Limited and W H Malcolm Limited dated 8 December 2008 the tenant's interest in which is registered in the Land Register of Scotland under title number REN127027



For and on behalf of the Borrower

Form of Intimation to Tenants *[Note: not to be annexed to signing version of Assignment of Rents but should be delivered as a completion item if intimation taking place immediately.]*

[Name of addressee]
[Insert address]

Dear Sirs

[date]

[] Landlord
[] Tenant
[] Property

We act for [], your landlords in terms of the lease between [] and [you]/[]¹ in respect of the Property dated [] and [] and registered in the Books of Council and Session on [] (the "Lease").

On behalf of the Landlord we intimate:-

(1) that by a Retrocession dated [] 2020, HSBC BANK PLC, incorporated under the Companies Acts (Company Number 00014259) and having their Registered Office at 8 Canada Square, London, E14 5HQ (the "Outgoing Security Agent") has retrocessed, reponed and restored to and in favour of the Landlord the rights in respect of the Lease assigned by the Landlord to the Outgoing Security Agent in terms of an assignment of rents dated [] in favour of the Outgoing Security Agent; and

(2) the Landlord has assigned its right, title and interest in and to the rent receivable by the landlords in terms of the Lease to **HSBC UK BANK PLC**, a company incorporated and registered under the laws of England and Wales with registered number 09928412 whose registered office is at 8 Canada Square, London, E14 5HQ (the "Bank").

The Landlord authorises you (notwithstanding any previous instructions which it may have given to you), until you receive notice from the Bank to the contrary to pay any rent payable by you under the Lease to such account as the Bank directs from time to time.

Until otherwise directed by the Bank (you should pay any rent payable to the undernoted accounts (as applicable))(you should continue to pay any rent payable by you under the Lease to the Landlord). We confirm that the Landlord remains responsible for the management of the Property at all times.

This letter is governed by the law of Scotland.

Please acknowledge receipt of this letter and your acceptance of the contents of this letter by signing the attached form of acknowledgement² and forwarding it to the Bank at the address shown on the acknowledgement.

Yours faithfully

Undernote

[Bank:]

Bank: []

¹ Insert name of original tenant.

² Form of acknowledgement to be attached.

Account Number: []

Sort Code: []

Sort Code: []]