



Registration of a Charge

Company name: **MAGFERN ESTATES LIMITED**

Company number: **01474833**

Received for Electronic Filing: **16/09/2016**



X5FNOJ23

Details of Charge

Date of creation: **13/09/2016**

Charge code: **0147 4833 0008**

Persons entitled: **MICHAEL WILLIAM FAULKNER AND PENELOPE ANN FAULKNER**

Brief description: **THE LAND AND BUILDINGS KNOWN AS: (A) 7-11 WARDWICK, DERBY, DE1 1HA, REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DY29889; AND (B) 18 MAIN STREET, WESTON ON TRENT, DERBY, DE72 2BL, REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DY124504**

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:

FLINT BISHOP LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1474833

Charge code: 0147 4833 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th September 2016 and created by MAGFERN ESTATES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th September 2016 .

Given at Companies House, Cardiff on 19th September 2016

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: 13 September 2016

Magfern Estates Limited
the Borrower

In favour of

Michael William Faulkner and Penelope Ann Faulkner
the Lender

Legal Charge

In respect of the land and buildings at 7-11 Wardwick, Derby, DE1 1HA and
18 Main Street, Weston on Trent, Derby, DE72 2BL

I certify that this is a true copy of the original save for
redaction pursuant to section 859 G of the Companies Act
2006.

Flint Bishop
16/9/16

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This Deed is made on 13 September 2016

By

- (1) **Magfern Estates Limited** (registered in England and Wales Company No. 01474833) whose registered office is at 16, Main Street, Derby, Derbyshire, DE72 2BL (the **Borrower**);

In favour of

- (2) **Michael William Faulkner** and **Penelope Ann Faulkner** both of Crusader Wing, Brocksford Hall, Brocksford, Derbyshire DE6 5PA (the **Lenders**).

1 Interpretations

In this Deed:

- 1.1 the following expressions have the following meanings unless inconsistent with the context:

Borrower's Obligations means all the Borrower's liabilities to the Lenders under or in connection with the Loan Agreement together with Interest and Expenses

Charged Assets means the assets charged by **Clause 2**

Event of Default has the meaning given to it in the Loan Agreement and shall also include any breach by the Borrower of the terms of this Deed

Expenses means all expenses (on a full indemnity basis) incurred by the Lenders or any Receiver at any time in connection with the Property the Charged Assets the Goodwill or the Borrower's Obligations or in taking or perfecting this deed or in preserving defending or enforcing the security created by this deed or in exercising any power under this deed or otherwise with Interest from the date they are incurred

Goodwill means the present and future goodwill of any business carried on at the Property by or on behalf of the Borrower

Interest means interest at the rate(s) charged to the Borrower by the Lenders pursuant to the terms of the Loan Agreement

Loan Agreement means the loan agreement dated on or about the date of this Deed and made between the Borrower and the Lenders, as amended, varied or supplemented from time to time

Property means the land and buildings known as:

- (a) 7-11 Wardwick, Derby, DE1 1HA, registered at the Land Registry under title number DY29889; and
- (b) 18 Main Street, Weston on Trent, Derby, DE72 2BL, registered at the Land Registry under title number DY124504

Receiver means a receiver and or manager of the Property

Security Period means the period starting on the date of this Deed and ending on the date on which the Lenders are satisfied that all the Borrower's Obligations have been unconditionally and irrevocably paid and

discharged in full and none of the Borrower's Obligations are capable of being outstanding;

1.2 the expressions **Borrower** and **Lenders** where the context admits include their respective successors in title and assigns;

1.3 references to the **Property** and the **Charged Assets** include any part of it or them and the **Property** includes all covenants and rights affecting or concerning the same. The **Property** also includes any share from time to time held by the Borrower in any landlord or management company of the Property; and

1.4 each of the provisions of this Deed shall be severable and distinct from one another and if one or more of such provisions is invalid or unenforceable the remaining provisions shall not in any way be affected.

2 **Charge**

The Borrower covenants to discharge on demand the Borrower's Obligations when due in accordance with their terms and as a continuing security for such discharge and with full title guarantee charges to the Lenders:

2.1 by way of legal mortgage of all legal interests and otherwise by way of fixed charge the Property (to the full extent of the Borrower's interest in the Property or its proceeds of sale);

2.2 by way of fixed charge:

(a) all the fixtures and fittings of the Borrower from time to time attached to the Property;

(b) all the plant and machinery vehicles and computer equipment of the Borrower present and future at the Property not regularly disposed of in the ordinary course of business and all associated warranties and maintenance contracts; and

(c) all furniture furnishings equipment tools and other chattels of the Borrower now and in the future at the Property and not regularly disposed of in the ordinary course of business; and

2.3 by way of fixed charge the Goodwill all rents receivable from any lease granted out of the Property and the proceeds of any insurance from time to time affecting the Property or the Charged Assets.

3 **Repair, alteration and insurance**

3.1 The Borrower will keep the Property and the Charged Assets in good condition and comprehensively insured to the Lenders' reasonable satisfaction for their full reinstatement cost and in default the Lenders (without becoming liable to account as mortgagee in possession) may enter and repair or insure the Property and the Charged Assets. The Borrower will deposit with the Lenders the insurance policy or (if the Lenders agree) a copy of it. The Borrower shall note the interest of the Lenders on such insurance policy and (if the Lenders so require) produce to the Lenders receipts for all premiums and other payments necessary for effecting and keeping up such insurance policy

3.2 The Borrower will hold in trust for the Lenders all money received under any insurance of the Property or the Charged Assets and at the Lenders' option will apply the same in making good the relevant loss or damage or in or towards discharge of the Borrower's Obligations.

3.3 The Borrower will not without the prior written consent of the Lenders make any alteration to the Property which would require planning permission or approval under any building regulations.

4 **Restrictions on charging, leasing, disposing and parting with possession**

4.1 Subject to **clause 4.2** the Borrower will not without the Lenders' prior written consent:

- (a) create or permit to arise any mortgage charge or lien on the Property, the Charged Assets or the Goodwill;
- (b) grant or accept a surrender of any lease or licence of the Property, the Charged Assets or the Goodwill; or
- (c) dispose of or part with or share possession or occupation of the Property, the Charged Assets or the Goodwill.

4.2 If the Lender does consent to the creation of a mortgage or charge on the Property it may require a priority agreement or deed with the mortgagee or chargee. In the case of Registered Land this will require registration and will be a public document.

4.3 The Borrower applies and agrees that the Lenders may apply for a restriction to be entered on the register of any registered land for the following restriction to be registered against its title to the Property:

"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 2016 in favour of Michael William Faulkner and Penelope Ann Faulkner referred to in the charges register or their conveyancer."

5 **Powers of the Lenders**

5.1 The security constituted by this deed shall be immediately enforceable and the power of sale and other powers given by section 101 of the Law of Property Act 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the occurrence of an Event of Default.

5.2 At any time after the security constituted by this deed has become enforceable, the Lenders may (whether in their own name or in that of the Borrower) without restriction grant or accept surrenders of leases of the Property and the Charged Assets.

5.3 Section 103 of the Law of Property Act 1925 shall not apply and the Lenders may exercise their power of sale and other powers under that or any other Act or this Deed at any time after the date of this Deed, but the Lenders shall not exercise such power of sale until the security constituted by this Deed has become enforceable under **clause 5.1**.

- 5.4 At any time after the security constituted by this Deed has become enforceable, the Lender may under the hand of any official or manager or by deed appoint or remove a Receiver or Receivers of the Property the Charged Assets and the Goodwill and may fix and pay the fees of a Receiver but any Receiver shall be deemed to be the agent of the Borrower and the Borrower shall be solely responsible for the Receiver's acts defaults and remuneration.
- 5.5 All or any of the powers conferred on a Receiver by **Clause 6** may be exercised by the Lender without first appointing a Receiver or notwithstanding any appointment.
- 5.6 Neither the Lenders nor any Receiver shall be liable to account to the Borrower as mortgagee in possession for any money not actually received by the Lender.
- 5.7 Section 93(1) of the Law of Property Act 1925 shall not apply to this Deed.

6 Receivers

- 6.1 Any Receiver appointed by the Lenders shall (in addition to all powers conferred on him by law) have the following powers which in the case of Joint Receivers may be exercised jointly or severally:
- (a) to take possession of and generally manage the Property and the Charged Assets and any business carried on at the Property;
 - (b) to carry out on the Property any new works or complete any unfinished works of building reconstruction maintenance furnishing or equipment;
 - (c) to purchase or acquire any land or other property and purchase acquire grant or release any interest in or right over land or the benefit of any covenants (positive or restrictive) affecting land;
 - (d) to sell lease surrender or accept surrenders of leases charge or otherwise deal with and dispose of the Property the Charged Assets and the Goodwill without restriction including (without limitation) power to dispose of any fixtures separately from the Property;
 - (e) to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Borrower;
 - (f) to take continue or defend any proceedings and enter into any arrangement or compromise;
 - (g) to insure the Property and the Charged Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds and give indemnities and security to any bondsmen;
 - (h) to employ advisers consultants managers agents workmen and others and purchase or acquire materials tools equipment goods or supplies;
 - (i) to borrow any money and secure the payment of any money in priority to the Borrower's Obligations for the purpose of the exercise of any of his powers; and

(j) to do any other acts which the Receiver may consider to be incidental or conducive to any of his powers or to the realisation of the Property the Charged Assets and the Goodwill.

6.2 The Borrower grants to such Receiver an irrevocable licence and power to use in connection with any business carried on at the Property all property of the Borrower at the Property when the Receiver is appointed and to remove store sell and/or dispose of any such property. The Receiver will account to the Lenders for the proceeds of any sale of such property after deducting all costs and expenses incurred in the sale and that amount shall be a debt due from the Lenders to the Borrower.

6.3 A Receiver shall apply all money he receives first in repayment of all money borrowed by him and his expenses and liabilities and in payment of his fees and secondly towards the remaining matters specified in Section 109(8) of the Law of Property Act 1925.

7 **Power of attorney**

The Borrower irrevocably appoints the Lenders and any Receiver severally to be the Attorney of the Borrower (with full power of substitution and delegation) in the Borrower's name and on the Borrower's behalf and as the Borrower's act and deed to sign or execute all deeds instruments and documents or take continue or defend any proceedings which may be required by the Lenders or any Receiver pursuant to this Deed or the exercise of any of their powers.

8 **Appropriation**

The Lenders may appropriate all payments received for the account of the Borrower in reduction of any part of the Borrower's Obligations as the Lender decide.

9 **Preservation of other security and rights and further assurance**

9.1 This Deed is in addition to any other security present or future held by the Lenders for the Borrower's Obligations and shall not merge with or prejudice such other security or any contractual or legal rights of the Lenders.

9.2 The Borrower will at the Borrower's own cost at the Lenders' request execute any deed or document and take any action required by the Lenders to perfect this security or further to secure the Borrower's Obligations on the Property the Charged Assets and the Goodwill.

9.3 The security constituted by this Deed shall remain in full force and effect as a continuing security for the Borrower's Obligations, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lenders discharge this Deed in writing.

10 **General**

10.1 Any waiver or variation of any right by the Lenders (whether arising under this deed or under the general law) shall only be effective if it is in writing and signed by the Lenders and applies only in the circumstances for which it is given, and shall not prevent the Lenders from subsequently relying on the relevant provision.

- 10.2 No delay or failure by the Lenders to exercise any right or power under this deed shall operate as a waiver.
- 10.3 No single or partial exercise of any right under this deed shall prevent other or further exercises of that or any other right.
- 10.4 The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this Deed

11 **Release**

- 11.1 Subject to **clause 11.2**, on the expiry of the Security Period, the Lenders shall, at the request and cost of the Borrower, take whatever action is necessary to:
- (a) release the Charged Assets from the security constituted by this Deed; and
 - (b) reassign the Charged Assets to the Borrower.
- 11.2 Any release, discharge or settlement between the Borrower and the Lenders shall be deemed conditional on no payment or security received by the Lenders in respect of the Borrower's Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:
- (a) the Lenders or their nominee may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that the Lenders deem necessary to provide the Lenders with security against any such avoidance, reduction or order for refund; and
 - (b) the Lenders may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

12 **Assignment**

The Borrower may not assign any of its rights under this Deed or any document referred to in it.

13 **Rights of third parties**

Other than any person to whom the Lenders have assigned their rights, the parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

14 **Counterparts**

This Deed may be executed in any number of counterparts and by the parties on separate counterparts, each of which so executed and delivered will be an original of this Deed, but all the counterparts will together constitute one and the same agreement.

15 **Notices**

15.1 Any demand, notice or other communication in connection with this Deed will be in writing and will, if otherwise given or made in accordance with this **clause 15**, be deemed to have been duly given or made as follows:

- (a) if sent by prepaid first class post, on the second Business Day after the date of posting; or
- (b) if delivered by hand, upon delivery at the address provided for in this **clause 15**; or
- (c) if sent by facsimile, on the day of transmission provided that a confirmatory copy is, on the same Business Day that the facsimile is transmitted, sent by pre- paid first class post in the manner provided for in this **clause 15**,

provided that, if it is delivered by hand or sent by facsimile on a day which is not a Business Day or after 4.00 pm on a Business Day, it will instead be deemed given or made on the next Business Day.

15.2 Any such demand, notice or other communication will, in the case of service by post or delivery by hand, be addressed to the recipient at the recipient's address stated in this Deed or such other address as may from time to time be notified in writing by the recipient to the sender as being the recipient's address for service and will, in the case of service by facsimile, be sent using a facsimile number then used by the recipient.

16 **Governing Law**

This Deed shall be governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.

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

Execution

EXECUTED as a DEED
by **Michael William Faulkner**
in the presence of:

Witness signature:

Witness name: **William Bowler** ...
St. Michaels Court
Witness address: **St. Michaels Lane**
..... **Derby DE1 3HQ**
..... **Solicitor**
Witness occupation:

EXECUTED as a DEED
by **Penelope Ann Faulkner**
in the presence of:

Witness signature:

Witness name: **William Bowler** ...
St. Michaels Court
Witness address: **St. Michaels Lane**
..... **Derby DE1 3HQ**
..... **Solicitor**
Witness occupation:

EXECUTED as a DEED)
by **Magfern Estates Limited** acting)
by its duly authorised director,)
Darren Faulkner
in the presence of:

Witness signature:

Witness name: **William Bowler** ...
St. Michaels Court
Witness address: **St. Michaels Lane**
..... **Derby DE1 3HQ**
..... **Solicitor**
Witness occupation:

Ref: WHB/043652 0013

Flint Bishop LLP, St Michael's Court, St Michael's Lane, Derby, DE1 3HQ. DX: 729320 Derby 24. Tel: 01332 340211.