



Registration of a Charge

Company name: **McCarthy & Stone Retirement Lifestyles Limited**

Company number: **06622231**



X64T9E4Q

Received for Electronic Filing: **21/04/2017**

Details of Charge

Date of creation: **21/04/2017**

Charge code: **0662 2231 0128**

Persons entitled: **GATERIGG INVESTMENTS LIMITED**

Brief description: **THE FREEHOLD LAND AT PARSONAGE LANE, BRIGHOUSE AND
REGISTERED AT THE LAND REGISTRY WITH TITLE ABSOLUTE UNDER
TITLE NUMBERS WYK721028 AND WYK750395**

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SCHOFIELD SWEENEY LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6622231

Charge code: 0662 2231 0128

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st April 2017 and created by McCarthy & Stone Retirement Lifestyles Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st April 2017 .

Given at Companies House, Cardiff on 24th April 2017

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

DATED 21 April 2017

(1) **GATERIGG INVESTMENTS LIMITED**

(2) **McCARTHY & STONE RETIREMENT
LIFESTYLES LIMITED**

LEGAL CHARGE

of

Land at Parsonage Lane, Brighouse

Lester Aldridge LLP

Solicitors

Real Estate Team

Russell House

Oxford Road

Bournemouth

Dorset

BH8 8EX

Tel: 01202 786161

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Ref: 6.MXB.MCC.33.1917

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THIS LEGAL CHARGE is made on

21 April

2017

BETWEEN:-

- (1) **Owner** : **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED** whose registered office is at 4th floor 100 Holdenhurst Road Bournemouth Dorset BH8 8AQ (company registration number 06622231).
- (2) **Chargee** : **GATERIGG INVESTMENTS LIMITED** (incorporated in Isle of Man with company number 013417C) of 8 St George's Street, Douglas, Isle of Man IM1 1AH

BACKGROUND

- 0.1 By the terms of the Agreement (defined in clause 1.1) the Owner agreed to purchase the Property (defined in clause 1.1) subject to obligations to make payments to the Chargee of deferred consideration.
- 0.2 It was agreed by the parties to the Agreement that this Deed would be executed by the Owner in order to secure payment to the Chargee of the sums agreed to be paid by the Owner under the terms of the Agreement.
- 0.3 The parties intend insofar as such payments can be secured by way of a charge by way of legal mortgage that such payments will be so secured under the terms of this Deed but insofar as they cannot be so secured that they will be secured by way of an equitable charge.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

In this Deed:

- 1.1. the following words and expressions shall have the following meanings unless otherwise stated:

Act of Insolvency : any of the following:

- a. the Owner suspends payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- b. the Owner commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Owner with one or more other companies or the solvent reconstruction of the Owner;
- c. an order is made for or in connection with the winding up of the Owner other than for the

sole purpose of a scheme for a solvent amalgamation of the Owner with one or more other companies or the solvent reconstruction of the Owner;

- d. an order is made for the appointment of an administrator over the Owner;
- e. the holder of a qualifying floating charge over the assets of the Owner appoints an administrative receiver;
- f. the Owner is struck off from the Register of Companies; or
- g. the Owner otherwise ceases to exist.

Agreement

- : an agreement dated 29 January 2016 and made between the Chargee (1) and the Owner (2) in relation to the Property as amended by a supplemental agreement dated [1] between the same parties.

3 January 2017 LA

Debt

- : the Principal Sum together with all other sums payable by the Owner to the Chargee pursuant to the terms of this Deed.

Disposal

- : a disposition within the meaning of section 27(2) of the Land Registration Act 2002 (other than an Exempt Disposal).

Exempt Disposal

- : either of the following:
- a. any disposal or the grant of any easement or wayleave for nominal consideration for the siting of an electricity substation gas governor pumping station road or other similar service facility or the grant of any easements or rights wholly for the benefit of the development of the Property;
 - b. the disposal of any completed residential dwellings provided always that this exemption shall only apply to 50% of the residential dwellings forming part of the development on the Property and shall only apply when no fewer than 28 residential units have been practically completed on the Property; or
 - c. any disposal of amenity areas to a management company.

Interest

- : Interest at 4% above the base rate from time to time of National Westminster Bank plc calculated on a daily basis during the period beginning on the first day on which the relevant sum is due and

ending on the date on which the payment is made whether before or after any judgment and compounded on the usual quarter days.

Principal Sum : £500,000.00.

Property : the freehold land at Parsonage Lane, Brighouse and registered at the Land Registry with title absolute under title numbers WYK721028 and WYK750395.

Working Day : any day which is not a Saturday or Sunday Christmas Day Good Friday or a statutory bank holiday.

- 1.2. Obligations expressed to be made or assumed by a party comprising more than one person are made and are to be construed as made by all such persons jointly and severally;
- 1.3. Words denoting one gender include the other genders and words denoting persons include firms and corporations and vice versa;
- 1.4. Words importing the singular number include the plural and vice versa;
- 1.5. Clause paragraph and schedule headings are not to affect interpretation;
- 1.6. Any obligation on any party not to do or omit to do anything includes an obligation not to allow that thing to be done or omitted to be done by any employee servant agent consultant or other person acting on that party's behalf or under that party's control;
- 1.7. Unless the context otherwise requires a reference to a clause or to a Schedule is a reference to the relevant clause in or Schedule to this Deed and a reference to a paragraph of a Schedule is a reference to the relevant paragraph of that Schedule.
- 1.8. Any references to "liability" include where the context allows claims demands proceedings damages loss costs and expenses.
- 1.9. Any references to any statutes or statutory instruments include any statute or statutory instrument amending consolidating or replacing them respectively from time to time in force and references to a statute include statutory instruments and regulations made pursuant to it.
- 1.10. If any provision of this Deed is held to be invalid or unenforceable then such provision will (so far as invalid or unenforceable) be given no effect and is deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed.

2. COVENANT TO PAY

2.1. The Owner covenants with the Chargee to pay to the Chargee:

- 2.1.1. the Principal Sum in the manner set out in and pursuant to the terms of the Agreement; and

- 2.1.2. if the Owner fails to make any payment due under this Deed on the due date for payment, the Owner shall pay Interest on that sum or the part of it from time to time outstanding.

3. CHARGE

- 3.1. The Owner with full title guarantee charges the Property by way of a first legal mortgage with payment to the Chargee of the Debt.
- 3.2. Insofar as the Principal Sum is unable to be secured by way of a charge by way of legal mortgage the Owner with full title guarantee charges the Property by way of equitable mortgage with the payment to the Chargee of the Debt.

4. DISPOSALS

- 4.1. The Owner covenants with the Chargee not to make any Disposal of the whole or part of the Property without a consent in writing signed by the Chargee.
- 4.2. The Owner consents to an application being made by the Chargee to the Land Registrar 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 is to be registered without a certificate signed by a conveyancer that the provisions of clause 4.1 of a legal charge dated [21 April 2017] and made between Gaterigg Investments Limited (1) and McCarthy & Stone Retirement Lifestyles Limited (2) have been complied with or that they do not apply to the disposition."

- 4.3. The Chargee will at the cost of the Owner (such costs to be incurred reasonably and properly) within 10 Working Days of written request send the Owner a properly executed form DS3 and RX4 in respect of any part of the Property that is subject to an Exempt Disposal.
- 4.4. On receipt of the Debt the Chargee will without unreasonable delay apply to the Land Registry to remove the restriction referred to at clause 4.3 and in any event within 5 Working Days.

5. FURTHER COVENANTS ETC

- 5.1. The Owner further covenants with the Chargee:
- 5.1.1. within 5 Working Days of a written demand to repay to the Chargee all monies costs charges and expenses properly paid or incurred by the Chargee in relation to the enforcement of the security created by this Deed and the obligations owed by the Owner under this Deed and the obligations owed by the Owner under clauses 6.3 to 6.6 (inclusive) of the Agreement;
- 5.1.2. to comply with all obligations covenants conditions restrictions and stipulations affecting or attaching to the Property (so far as the same are still subsisting and capable of being enforced);

- 5.1.3. duly and punctually pay all rates taxes and outgoings relating to the Property;
- 5.1.4. to comply with all obligations relating to the Property imposed by any present or future statute or any statutory instrument regulation or order made under it or imposed by any statutory public local or other authority and any court of law and any government department;
- 5.1.5. to keep all buildings, fixtures, fittings and services and facilities in or on the property in good repair and condition and working order, save in so far as necessary in relation to the orderly development of the Property;
- 5.1.6. to procure that all buildings constructed on the Property from time to time are insured for such amount or amounts and on such terms as the Owner shall reasonably determine; and
- 5.1.7. without unreasonable delay, on reasonable demand to produce to the Chargee any order, direction, notice or other matter affecting or likely to affect the Property received by or on behalf of the Owner and to comply with any such order, direction, notice or other matter without unreasonable delay at the Owner's cost.

5.2. The Owner represents and warrants to the Chargee that:

- 5.2.1. the execution of, and the observance and performance of its obligations under, this Deed does not and will not contravene any other charge, mortgage, lease, loan facility or other agreement; and
- 5.2.2. the execution of and the observance of its obligations under this Deed does not and will not contravene any of the provisions of its Memorandum and Articles of Association.

6. POWER OF SALE ETC.

- 6.1. The Chargee's power of sale and other statutory powers shall arise immediately after execution of this Deed.
- 6.2. The power of sale and leasing conferred by virtue of this Deed is immediately exercisable by the Chargee without notice at any time or times after the happening of any of the following events:
 - 6.2.1. the Owner is in breach of its covenants or obligations under clause 2.1.1 or clause 5.1.6 of this Deed; or
 - 6.2.2. an Act of Insolvency occurs.
- 6.3. Section 103 of the Law of Property Act 1925 shall not apply to this Deed.
- 6.4. At any time after this security becomes enforceable, or at the request of the Owner the Chargee may by writing under hand appoint any person or persons to be a receiver of all or any part of the Property and:

- 6.4.1. the Chargee 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;
- 6.4.2. the Chargee 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;
- 6.4.3. none of the restrictions imposed by the Law of Property Act 1925 in relation to the appointment of receivers or as to the giving of notice or otherwise shall apply; and
- 6.4.4. where more than one receiver is appointed they shall have the power to act severally.
- 6.5. Any receiver appointed by the Chargee under the power conferred by virtue of this Deed in respect of the Property has as attorney for the Owner and in addition to any other powers conferred on it full power:
- 6.5.1. to sell the Property on such terms as the receiver thinks fit;
- 6.5.2. to grant options to sell the Property on such terms and in such circumstances as the receiver thinks fit;
- 6.5.3. to grant any lease or tenancy of the Property for such term or terms of years and at such rent or premium and generally on such terms as the receiver thinks fit;
- 6.5.4. to accept the surrender of any lease or tenancy on such terms as the receiver thinks fit;
- 6.5.5. to enter upon and take possession of the Property and to repair decorate alter improve add to or develop it and to complete any development or building on it which may have commenced;
- 6.5.6. to manage carry on or concur in carrying on at the Property any trade or business whatsoever and for that purpose to enter into and perform such contracts and arrangements and incur such obligations as the receiver thinks fit;
- 6.5.7. to compromise or settle any claim or claims relating to the Property and to determine or pay any compensation or any other sums which any tenant or occupier of the Property may be entitled to receive and to apply any compensation received in respect of the Property in or towards the discharge of the Debt;
- 6.5.8. to employ such persons as the receiver thinks fit for any of the foregoing purposes and to apply for and obtain such approvals permissions consents and licences and to enter into and perform such contracts and arrangements to purchase such materials and to incur such obligations as the receiver thinks fit;
- 6.5.9. to raise or borrow from any person and to secure payment of money (whether or not in priority to the Debt) for any of the foregoing purposes in such manner as the receiver thinks fit; and

- 6.5.10. to do all such other acts and things as may in the opinion of the receiver be necessary or desirable in connection with any of the foregoing powers.
- 6.6. All sums expended by the receiver in pursuance of the powers conferred on it by this Deed will on demand be repaid by the Owner and will be paid together with Interest.
- 6.7. Any receiver appointed in relation to this Deed is the agent of the Owner. The Owner is solely responsible for the receiver's acts defaults and remuneration. The Chargee and the receiver are entitled to be indemnified by the Owner in respect of all liability suffered or incurred directly or indirectly by either of them in the execution of any powers authorities or discretions vested in either or both of them or in respect of any matter or thing done or omitted to be done in relation to the Property.
- 6.8. All money received by any receiver shall be applied by him:
- 6.8.1. 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);
 - 6.8.2. in payment to the receiver of such remuneration as may be agreed between him and the Chargee at, or at any time and from time to time after, this appointment; and
 - 6.8.3. in or towards satisfaction of the amount owing to the Chargee under this Deed and the surplus (if any) shall be paid to the Owner or other persons entitled to it.
- 6.9. No person dealing with the Chargee or any receiver appointed by him shall be concerned bound or entitled to inquire or be affected by notice as to any of the following matters:
- 6.9.1. whether this security has become enforceable;
 - 6.9.2. whether any power exercised or purported to be exercised under this Deed has arisen or become exercisable;
 - 6.9.3. the propriety, regularity or purpose of the exercise or purported exercise of any such power;
 - 6.9.4. whether any money remains due under the security; or
 - 6.9.5. the necessity or expediency of the stipulations and conditions subject to which any disposition shall be made;
- and the receipt of the Chargee or any receiver for any money shall 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.
- 6.10. The Chargee 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

Chargee under this Deed grant to the Owner, 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 it may now or subsequently have from or against the Owner or any other person.

7. POWER OF ATTORNEY

- 7.1. For as long as any charge created by virtue of this Deed subsists the Owner irrevocably appoints the Chargee (and any person nominated in writing under the hand of any officer of the Chargee including a receiver) to act jointly and severally where appropriate as the attorney of the Owner.
- 7.2. In the Owner's name and on its behalf and as the act and deed of the Owner the Chargee as such attorney may execute and deliver any deed assurance agreement or instrument or perform any other act which may be necessary or desirable for any of the purposes of this Deed.

8. TRUST POWERS

- 8.1. The Owner declares that as and when the security created by this Deed is enforceable the Owner will hold the Property (subject to its rights of redemption) upon trust to convey assign or otherwise deal with the Property in such manner and in favour of such person as the Chargee directs.
- 8.2. Insofar as the Property is charged by way of equitable mortgage the Owner declares that it holds the Property on trust so that the Chargee will have such powers of sale and leasing and other powers and rights as the Chargee would have had under a charge by way of legal mortgage but subject thereto to hold the Property for the Owner in trust for itself absolutely and beneficially.
- 8.3. The Owner declares that it is lawful for the Chargee by deed to appoint a new trustee or trustees of the Property whether in addition to or in substitution for the Owner as if the Owner wished to be discharged from the trust or in place of any trustee or trustees as if he or they were dead.

9. NOTICES

- 9.1. All notices under this Deed must be in writing.
- 9.2. Unless the receiving party acknowledges receipt a notice is valid only if it is given by hand sent by special or recorded delivery or sent by fax (provided in the case of sending by fax the fax is properly addressed and transmitted as evidenced by a fax delivery report) and served:
 - 9.2.1. at its registered office where the receiving party is a company incorporated in the United Kingdom; or
 - 9.2.2. where the receiving party is the Owner at the Property at both that party's address shown in this Deed or at an address specified in a notice given by that party to the other and to the Owner's Solicitors being Lester Aldridge LLP at Russell House, Oxford Road, Bournemouth, Dorset BH8 8EX (quoting reference 6.MXB.MCC.33.1917); or

9.2.3. where the receiving party is the Chargee at both that party's address shown in this Deed or at an address specified in a notice given by that party to the other and to the Chargee's Solicitors being Schofield Sweeney LLP at Church Bank House, Church Bank, Bradford, BD1 4DY (quoting reference DCB 7164.2).

9.3. Unless it is returned through the postal service undelivered a notice sent by special delivery or recorded delivery is to be treated as served on the third working day after posting whenever (and whether or not) it is received.

9.4. A notice sent by fax is to be treated as served on the day on which it is sent unless the fax is sent after 4.00pm or sent on a day that is not a working day in which case service is on the next working day.

10. GENERAL

10.1. Any release, discharge or settlement between the Owner and the Chargee shall be deemed conditional on no payment or security received by the Chargee in respect of the Debt 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:

10.1.1. the Chargee or its 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 Property, for such period as the Chargee acting reasonably deems necessary to provide the Chargee with security against any such avoidance, reduction or order for refund; and

10.1.2. the Chargee may recover the value or amount of such security or payment from the Owner subsequently as if such release, discharge or settlement had not occurred.

10.2. The rights and powers of the Chargee conferred by this Deed are cumulative, may be exercised as often as the Chargee considers appropriate and are in addition to its rights and powers under the general law.

10.3. No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.

10.4. This Deed shall be governed by and construed in accordance with English Law and it is irrecoverably agreed for the exclusive benefit of the Chargee that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Deed and that accordingly any suit, action or proceeding arising out of or in connection with this Deed may be brought in such courts.

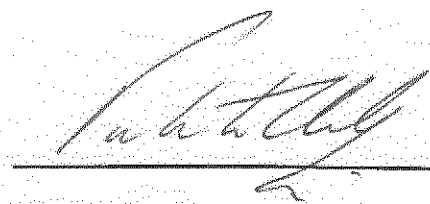
11. THIRD PARTY RIGHTS

Save as expressly provided none of the provisions of this Deed are intended to or will operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on a person who is not named as a party to it.

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

EXECUTED as a deed by **McCARTHY &
STONE RETIREMENT LIFESTYLES LIMITED**
by a director in the presence of a witness:

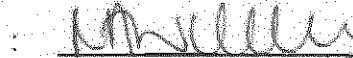
)
)
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PATRICK HOLE

NAME (Print)

Witness's signature

: 

Witness's name (capitals)

: NICOLA WILLIS

Witness's address (capitals)

: 4th FLOOR, 100 HOLDAWHURST ROAD
BARNEMOUTH BH8 9AQ

Witness's occupation
(capitals)

: LEGAL ASSISTANT

Signed as a deed on behalf of **GATERIGG
INVESTMENTS LIMITED** a company
Incorporated in Isle of Man, by []
and [] being persons who, in
accordance with the laws of that territory,
are acting under the authority of the
company:

)
)
)
)
)
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)

Director

Director

