



**Registration of a Charge**

Company name: **BATHURST DEVELOPMENT LIMITED**

Company number: **08527773**

Received for Electronic Filing: **10/08/2020**



X9B5SDA8

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**Details of Charge**

Date of creation: **05/08/2020**

Charge code: **0852 7773 0001**

Persons entitled: **COUTTS & COMPANY**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**KATIE PARK**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 8527773

Charge code: 0852 7773 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 5th August 2020 and created by BATHURST DEVELOPMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th August 2020 .

Given at Companies House, Cardiff on 11th August 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**

## EXECUTION VERSION

**THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND. IF YOU SIGN AND THE BANK IS NOT PAID YOU MAY LOSE THE ASSET(S) CHARGED**

**Date:** 5 August 2020

### Definitions

<b>Acceptable Bank:</b>	Either (a) Barclays Bank plc or (b) any other bank or financial institution agreed between the Bank and the Company
<b>Bank:</b>	Coutts & Company (Company No. 36695) whose registered office is situated at 440 Strand London WC2R OQS
<b>Company:</b>	Bathurst Development Limited (Company No. 08527773) whose registered office is situated at The Bathurst Estate Office Cirencester Park Cirencester Gloucestershire GL7 2BU
<b>Company's Obligations:</b>	All the Company's liabilities to the Bank of any kind and in any currency (whether present or future actual or contingent and whether incurred alone or jointly with another) together with the Bank's charges and commission Interest and Expenses
<b>Development:</b>	The meaning given to that term in the Facility Agreement
<b>Expenses:</b>	All expenses (on a full indemnity basis) incurred by the Bank or any Receiver at any time in connection with the Property or the Company'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
<b>Event of Default:</b>	Any of the events described in Clause 12 ( <i>Events of Default</i> ) of the Facility Agreement (an Event of Default is <b>continuing</b> if it has not been waived to the satisfaction of the Bank)
<b>Facility Agreement:</b>	The £16,000,000 term facility agreement dated on or about the date of this deed between the Company as borrower and the Bank as lender (as the same may be amended, varied or restated from time to time) or such other agreement as is designated a Facility Agreement from time to time by the Bank and the Company
<b>Interest:</b>	Interest at the rate(s) charged to the Company by the Bank from time to time
<b>Legal Mortgage:</b>	The legal mortgage dated on or about the date of this deed between the Bank and the Company (as the same may be amended, varied or restated from time to time)
<b>Non-Development Land:</b>	The meaning given to that term in the Facility Agreement
<b>Property:</b>	The whole and any part of the undertaking property and assets of the Company charged by Clause 1 ( <i>Charge</i> )
<b>Required Currency:</b>	The currency or currencies in which the Company's Obligations are expressed from time to time

## **Charge**

- 1 The Company covenants to pay and discharge the Company's Obligations when they become due for payment and discharge and as a continuing security for such discharge and with full title guarantee charges to the Bank:-**
- 1.1 By way of legal mortgage all the freehold and leasehold property (excluding the Non-Development Land) now vested in or charged to the Company**
- 1.2 By way of fixed charge all estates or interests in any freehold and leasehold property (excluding the Non-Development Land) now and in the future vested in or charged to the Company except the property charged by Clause 1.1**
- 1.3 By way of fixed charge all fixtures and fittings from time to time attached to any freehold and leasehold property (excluding the Non-Development Land) of the Company**
- 1.4 By way of fixed charge all plant and machinery of the Company present and future and all associated warranties and maintenance contracts**
- 1.5 By way of fixed charge all rents receivable from any lease granted out of any freehold and leasehold property (excluding the Non-Development Land) of the Company**
- 1.6 By way of fixed charge all the goodwill of the Company present and future**
- 1.7 By way of fixed charge all the uncalled capital of the Company present and future**
- 1.8 By way of fixed charge all stocks shares and other securities held by the Company from time to time in any subsidiary and all income and rights derived from or attaching to the same**
- 1.9 By way of fixed charge all Intellectual Property Rights choses in action licences and claims of the Company present and future and the insurance policies and proceeds of any insurance from time to time affecting the Property. "Intellectual Property Rights" include (without limitation) all rights in patents inventions copyrights design rights trademarks service marks database rights confidential information know-how domain names and business names**
- 1.10 By way of fixed charge the benefit of any currency or interest rate swap cap or collar or other hedging agreement or any futures transaction or treasury instrument made with the Bank or any third party**
- 1.11 By way of floating charge all the undertaking and all property assets and rights of the Company present and future not subject to a fixed charge under this deed or any other security present or future held by the Bank**

## **Restrictions**

- 2.1 The Company will not without the previous written consent of the Bank:-**
- 2.1.1 Create or permit to arise any mortgage charge or lien (except a lien arising by the operation of law in the ordinary course of business) on the Property, other than the Legal Mortgage or as expressly permitted under the Facility Agreement**
- 2.1.2 Dispose of the Property charged by Clauses 1.1 to 1.10 inclusive, except as expressly permitted under the Facility Agreement**
- 2.1.3 Accept payment in advance of a call for or call up any uncalled capital**

- 2.1.4 **Deal** with the Company's book debts and other debts otherwise than by collecting them in the ordinary course of the Company's business and in particular the Company will not realise its book debts and other debts by means of block discounting factoring or the like
- 2.1.5 **Dispose** of the Property (excluding the Non-Development Land) charged by Clause 1.11 other than in the ordinary course of business or as expressly permitted under the Facility Agreement
- 2.1.6 **Grant** or accept a surrender of any lease or licence of or part with or share possession or occupation of its freehold and leasehold property or any part of it, except as expressly permitted under the Facility Agreement
- 2.2 If the Bank 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.
- 2.3 For the avoidance of doubt, none of the restrictions in this Clause 2 apply to the Non-Development Land.

#### **Insurance**

- 3.1 The Company will keep comprehensively insured to the Bank's reasonable satisfaction in accordance with the provisions of clause 9.20 (*Insurances*) of the Facility Agreement all of the Property which is of an insurable nature and in default the Bank may enter and effect such insurance (without becoming liable to account as mortgagee in possession)
- 3.2 The Company will hold in trust for the Bank all money received under any insurance of the Property and at the Bank's option will apply the same in making good the relevant loss or damage or in or towards discharge of the Company's Obligations

#### **Deeds Securities and Debts**

- 4.1 The Company will, upon a request from the Bank, deposit with the Bank all insurance policies (or where the Bank agrees copies of them) deeds and documents of title relating to the Property
- 4.2 The Company will pay into such account with an Acceptable Bank as the Bank may specify from time to time all money which the Company may receive in respect of the Company's book debts and other debts
- 4.3 The Company will, following the execution of this agreement:
  - 4.3.1 immediately serve a notice of charge substantially in the form of Schedule 1 on the account bank; and
  - 4.3.2 use its reasonable endeavors to ensure that the account bank acknowledges the notice, substantially in the form of Schedule 1

#### **Repair and Alteration**

- 5.1 Subject to the carrying out of the Development and the terms of the Facility Agreement, the Company will keep the Property charged by Clauses 1.1 to 1.4 inclusive in good condition and the Bank may enter and inspect and in default effect repairs (without becoming liable to account as mortgagee in possession)
- 5.2 Subject to the carrying out of the Development and unless otherwise permitted under the Facility Agreement, the Company will not without the prior written consent of the Bank make

any alteration to the Property charged by Clauses 1.1 and 1.2 which would require Planning Permission or approval under any Building Regulations

#### **Notice of Crystallisation**

- 6 Following an Event of Default which is continuing, the Bank may by written notice to the Company convert the floating charge into a fixed charge as regards any of the property assets and rights of the Company present and future not subject to a fixed charge under this deed. Following such a notice the Company shall not dispose of any of such Property which is included in the notice without the prior written consent of the Bank

#### **Powers of the Bank**

- 7.1 Following an Event of Default which is continuing:
- 7.1.1 The Bank may without restriction grant or accept surrenders of leases of the Company's freehold and leasehold property or any part of it
- 7.1.2 Section 103 of the Law of Property Act 1925 shall not apply and the Bank may exercise its power of sale and other powers under that or any other Act or this deed at any time after the date of this deed
- 7.1.3 The Bank may under the hand of any official or manager or by deed appoint or remove a Receiver or Receivers of the Property and may fix and pay the fees of a Receiver but any Receiver shall be deemed to be the agent of the Company and the Company shall be solely responsible for the Receiver's acts defaults and remuneration
- 7.2 The Bank may under the hand of any official or manager appoint an administrator of the Company
- 7.3 All or any of the powers conferred on a Receiver by Clause 8 may be exercised by the Bank without first appointing a Receiver or notwithstanding any appointment
- 7.4 The Bank will not be liable to account to the Company as mortgagee in possession for any money not actually received by the Bank
- 7.5 Section 93(1) of the Law of Property Act 1925 shall not apply to this deed
- 7.6 The Bank may as it thinks fit exercise any rights attaching to the Property charged by Clauses 1.8 and 1.9 for the purpose of preserving the value of or realising such Property but otherwise the Bank will only exercise such rights in accordance with the Company's instructions
- 7.7 In addition to any lien or right to which the Bank may be entitled by law the Bank may from time to time without notice and both before and after demand set off the whole or any part of the Company's Obligations against any deposit or credit balance on any account of the Company with the Bank (whether or not that deposit or balance is due to the Company)
- 7.8 Despite any term to the contrary in relation to any deposit or credit balance on any account of the Company with the Bank that deposit or balance will not be capable of being assigned dealt with mortgaged or charged and will not be repayable to the Company before all the Company's Obligations have been discharged but the Bank may without prejudice to this deed permit the Company to make withdrawals from time to time
- 7.9 The Bank may exchange or convert to the Required Currency any currency held or received

- 7.10.1** If the Bank believes that any representation made by the Company to the Bank is materially untrue or that the Company has breached or might be about to breach any undertaking or covenant given to the Bank or any part of the Company's Obligations is not paid to the Bank when due then the Bank may request that the Company appoint a firm of accountants to investigate and report to the Bank on the financial affairs of the Company
- 7.10.2** If the Bank makes a request under Clause 7.10.1 the Company shall within 7 days (or such longer period as the Bank may allow) appoint a firm of accountants approved by the Bank on terms of reference approved by the Bank to carry out such investigation and make such report and the Company shall be solely responsible for the fees and expenses of such firm of accountants. The Bank may pay the amount of such fees and expenses on behalf of the Company and the Company shall reimburse the Bank such amount on demand
- 7.11** The Bank may apply to any account of the Company with the Bank (whether in credit or debit or whether such account may go into debit as a result) any amount which the Company is liable to pay or reimburse to the Bank under this deed

### **Receivers**

- 8.1** Any Receiver appointed by the Bank shall be a Receiver and Manager and 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:-
- 8.1.1** To take possession of and generally manage the Property and any business of the Company
- 8.1.2** To carry out on any freehold or leasehold property of the Company any new works or complete any unfinished works of building reconstruction maintenance furnishing or equipment
- 8.1.3** 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
- 8.1.4** To sell lease surrender or accept surrenders of leases charge or otherwise deal with or dispose of the Property without restriction including (without limitation) power to dispose of any fixtures separately from the land
- 8.1.5** To carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Company
- 8.1.6** To take continue or defend any proceedings and enter into any arrangement or compromise
- 8.1.7** To insure the Property and any works and effect indemnity insurance or other similar insurance and obtain bonds and give indemnities and security to any bondsmen
- 8.1.8** To call up any uncalled capital of the Company with all the powers conferred by the Articles of Association of the Company in relation to calls
- 8.1.9** To employ advisers consultants managers agents workmen and others
- 8.1.10** To purchase or acquire materials tools equipment goods or supplies
- 8.1.11** To borrow any money and secure the payment of any money in priority to the Company's Obligations for the purpose of the exercise of any of his powers



8.1.12 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

8.2 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

#### **Power of Attorney**

9 The Company irrevocably appoints the Bank and any Receiver severally to be the Attorney of the Company (with full power of substitution and delegation) in the Company's name and on the Company's behalf and as the Company'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 Bank or any Receiver pursuant to this deed or the exercise of any of their powers

#### **Appropriation**

10.1 Subject to Clause 10.2 the Bank may appropriate all payments received for the account of the Company in reduction of any part of the Company's Obligations as the Bank decides

10.2 The Bank may open a new account or accounts upon the Bank receiving actual or constructive notice of any charge or interest affecting the Property. Whether or not the Bank opens any such account no payment received by the Bank after receiving such notice shall (if followed by any payment out of or debit to the relevant account) be appropriated towards or have the effect of discharging any part of the Company's Obligations outstanding at the time of receiving such notice

#### **Preservation of other Security and Rights and Further Assurance**

11.1 This deed is in addition to any other security present or future held by the Bank for the Company's Obligations and shall not merge with or prejudice such other security or any contractual or legal rights of the Bank

11.2 The Company will at its own cost at the Bank's request execute any deed or document and take any action required by the Bank to perfect this security or further to secure on the Property the Company's Obligations

#### **Memorandum and Articles of Association**

12 The Company certifies that this deed does not contravene the Company's Memorandum and Articles of Association

#### **Notices**

13.1 Any notice or demand by the Bank may be served personally on any director or the secretary of the Company or may be sent by post or delivered to the Company at the Company's address last known to the Bank

13.2 A notice or demand by the Bank by post shall be deemed served on the Business Day after posting

13.3 "Business Day" means any day other than a Saturday or Sunday on which banks are generally open for business in London

## Governing Law

14 This deed shall be governed by and construed in accordance with English law

## Interpretation

- 15.1 The expressions "Company" and "Bank" where the context admits include their respective successors in title and assigns
- 15.2 The expression "subsidiary" carries the same meaning as in section 1159 of the Companies Act 2006
- 15.3 Interest will be calculated both before and after demand or judgment on a daily basis and compounded according to agreement or in the absence of agreement monthly on such days as the Bank may select
- 15.4 References to the "Property" include any part of it
- 15.5 References to freehold and leasehold property include all covenants and rights affecting or concerning the same
- 15.6 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

## In Witness of which this deed has been duly executed

EXECUTED as a DEED by Bathurst Development Limited  
acting by The Earl Bathurst, a director in the presence of:

)  
)  
)

Director

Witness Signature:

Witness Name:

Address:

Occupation:

For and on behalf of the Bank

\_\_\_\_\_  
Duly Authorised Official

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## In Witness of which this deed has been duly executed

EXECUTED as a DEED by Bathurst Development Limited )  
acting by \_\_\_\_\_, a director in the presence of: )  
\_\_\_\_\_ )

Director

Witness Signature:

Witness Name:

Address:

Occupation:

For and on behalf of the Bank



*Peter Hallen*

Duly Authorised Official

**Schedule 1**  
**Form of notice to account bank**

To: [Account Bank]  
Copy: Coutts & Co.

\_\_\_\_\_ 2020

Dear Sirs,

Debenture dated [•] 2020 between Bathurst Development Limited as the Company and Coutts & Co. as the Lender (**Debenture**)

This letter constitutes notice to you that under the Debenture we (Company) have charged (by way of a first fixed charge) in favour of Coutts & Co. (Lender) all our rights in respect of any amount standing to the credit of the account maintained by us with you (Account Number [•] Sort Code [•]) (**Controlled Account**) and the debt represented by it.

We irrevocably instruct and authorise you to, following notice from the Lender that an Event of Default has occurred and is continuing:

- (a) disclose to the Lender any information relating to the Controlled Account requested from you by the Lender;
- (b) comply with the terms of any written notice or instruction relating to the Controlled Account received by you from the Lender;
- (c) hold all sums standing to the credit of the Controlled Account to the order of the Lender; and
- (d) pay or release any sum standing to the credit of the Controlled Account in accordance with the written instructions of the Lender.

While an Event of Default is continuing, we are not permitted to withdraw any amount from the Controlled Account without the prior written consent of the Lender. We acknowledge that you may comply with the instructions in this letter without any further permission from us or enquiry by you. The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

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

Please confirm your agreement to the above by sending the attached acknowledgement to the Lender at 440 Strand London WC2R 0QS with a copy to us.

Yours faithfully,

.....  
(Authorised Signatory)  
Bathurst Development Limited

To: Coutts & Co.  
Copy: Bathurst Development Limited

2020

Dear Sirs,

Debenture dated [•] 2020 between Bathurst Development Limited as the Company and Coutts & Co. as the Lender (**Debenture**)

We confirm receipt from Bathurst Development Limited (Company) of a notice dated [•] of a charge upon the terms of the Debenture over all the rights of the Company to any amount standing to the credit of its account with us (Account Number [•], sort code [•]) (**Controlled Account**) and the debt represented by it.

We confirm that we:

- (a) accept the instructions contained in the notice and agree to comply with the notice;
- (b) have not received notice of the interest of any third party in the Controlled Account;
- (c) have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of the Controlled Account; and
- (d) will not permit any amount to be withdrawn from the Controlled Account without your prior written consent.

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

Yours faithfully,

.....  
(Authorised Signatory)  
[Account Bank]