

MR01

Particulars of a charge



Companies House

013380/23



Go online to file this information
www.gov.uk/companieshouse

A fee is be payable with this form
Please see 'How to pay' on the last page.

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form MR08

For further information, please
refer to our guidance at:
www.gov.uk/companieshouse

This form **must be delivered to the Registrar for registration** within
21 days beginning with the day after the date of creation of the charge.
If delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery.



You **must** enclose a certified copy of the instrument with this form.
It must be scanned and placed on the public record. **Do not send the original**

FRIDAY



A9DDHAZE

A19

11/09/2020

#228

COMPANIES HOUSE

1 Company details

Company number 0 9 7 5 0 8 4 0

Company name in full MULBERRY TREE HOLDINGS LTD

For official use

15

→ Filling in this form

Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d 0 d 3 m 0 m 9 y 2 y 0 y 2 y 0

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge.

Name MOAT HOMES LIMITED

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

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Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

Brief description

THE FREEHOLD PROPERTY BEING TENACRE COURT, ASHFORD ROAD, HARRIETSHAM, MAIDSTONE ME17 1AH AND REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER K718574 AND PARTLY UNDER TITLE NUMBER K692124

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☐ Yes

☒ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

¹ This statement may be filed after the registration of the charge (use form MR06).

9

Signature

Please sign the form here.

Signature

Signature

X

Cannings Connolly

X

This form must be signed by a person with an interest in the charge.

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name JSB/GEE/M161/1

Company name CANNINGS CONNOLLY

Address 16 ST. MARTIN'S-LE-GRAND

Post town LONDON

County/Region

Postcode E C 1 A 4 E E

Country UNITED KINGDOM

DX 50 LONDON

Telephone 020 7329 9000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post).

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N.R. Belfast 1.



Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9750840

Charge code: 0975 0840 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd September 2020 and created by MULBERRY TREE HOLDINGS LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th September 2020.

Given at Companies House, Cardiff on 21st September 2020

DX



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED 3 September 2020

MULBERRYTREE HOLDINGS LTD

and

MOAT HOMES LIMITED

LEGAL MORTGAGE
relating to freehold land Tenacre Court,
Ashford Road, Harrietsham, Maidstone ME17 1AH

Certified a true copy of the original
Cannings Connolly
CANNINGS CONNOLLY SOLICITORS
16 St. Martin's-le-Grand London EC1A 4EE
Date 10/09/2020

CANNINGS
CONNOLLY
SOLICITORS

16 St. Martin's-le-Grand London EC1A 4EE
Tel 020 7329 9000 Fax 020 7329 5000
www.cclaw.co.uk

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SCHEDULE

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THIS DEED is dated

3 September

2020

PARTIES

- (1) **MULBERRY TREE HOLDINGS LTD** incorporated and registered in England and Wales with company number 09750840 whose registered office is at Yew Tree Barn, Mulberry Hill, Chilham, Kent CT4 8AH (“**Mulberry**”).
- (2) **MOAT HOMES LIMITED** a registered society under the Co-operative and Community Benefit Societies Act 2014 with number 17434R whose registered office is at Mariner House, Galleon Boulevard, Dartford, Kent DA2 6QE (“**Moat**”).

RECITAL

Mulberry has agreed provide additional security to Moat in respect of the works being undertaken by Mulberry pursuant to the Building Contract.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this deed.

Building Contract: the building contract dated 3 September and made between Mulberry (1) and Moat (2) for the redevelopment of the Property.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Delegate: any person appointed by Moat or any Receiver under clause 13 and any person appointed as attorney of Moat, the Receiver or Delegate.

Environment: the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

Environmental Law: all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

Event of Default: the determination of the Building Contract due to a default of Mulberry without the works due to be carried out pursuant to the Building Contract having been completed

Interest Rate: 5% above the base rate of Barclays Bank Plc from time to time or should this rate cease to exist at another rate of interest closely comparable with the Interest Rate decided on by Moat acting reasonably.

LPA 1925: the Law of Property Act 1925.

Property: the freehold property owned by Mulberry described in the Schedule.

Receiver: a receiver or a receiver and manager of any or all of the Property.

Security: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Security Period: the period starting on the date of this deed and ending on the date of Practical Completion (as defined in the Building Contract).

VAT: value added tax.

1.2 Interpretation

In this deed:

- (a) clause and Schedule headings shall not affect the interpretation of this deed;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

- (h) a reference to **writing** or **written** includes fax but not e-mail;
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (j) a reference to **this deed** (or any provision of it) or to any other *agreement or document referred to in this deed* is a reference to **this deed**, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (k) unless the context otherwise requires, a reference to a clause or Schedule or Appendix is to a clause of, or Schedule or Appendix to, this deed;
- (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (p) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (q) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 **Nature of security over real property**

A reference in this deed to a **charge or mortgage of or over the Property** includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property;
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of Mulberry in respect of the Property and any monies paid or payable in respect of those covenants; and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

1.4 Perpetuity period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.5 Schedule

The Schedule forms part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedule.

2. GRANT OF SECURITY

2.1 Legal mortgage and fixed charges

As a continuing security for the performance by Mulberry of its obligations under the Building Contract, Mulberry with full title guarantee charges to Moat by way of first legal mortgage, the Property.

3. PERFECTION OF SECURITY

3.1 Registration of legal mortgage at the Land Registry

Mulberry consents to an application being made by Moat to the Land Registrar for the following restriction in Form P 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 [] in favour of Moat Homes Limited referred to in the charges register or its conveyancer."

3.2 Cautions against first registration and notices

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against Mulberry's title to the Property, Mulberry shall immediately provide Moat with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, Mulberry shall immediately, and at its own expense, take such steps as Moat may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

4. LIABILITY OF MULBERRY

4.1 Liability not discharged

Mulberry's liability under this deed shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, Moat that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) Moat renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of Mulberry.

4.2 Immediate recourse

Mulberry waives any right it may have to require Moat to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against Mulberry

5. REPRESENTATIONS AND WARRANTIES

5.1 Times for making representations and warranties

Mulberry makes the representations and warranties set out in this clause 4 to Moat on the date of this deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

5.2 Ownership of Property

Mulberry is the legal and beneficial owner of the Property and has good and marketable title to the Property.

5.3 No Security

The Property is free from any Security other than the Security created by this deed.

5.4 No adverse claims

Mulberry has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in it.

5.5 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Property.

5.6 No interference in enjoyment

No facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use.

5.7 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of Mulberry or otherwise.

5.8 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of Mulberry and is and will continue to be effective security over all and every part of the Property in accordance with its terms.

5.9 Environmental compliance

Mulberry has, at all times, complied in all respects with all applicable Environmental Law

5.13 Solvency

At the time of entering into this deed Mulberry is not insolvent and knows of no circumstances that would entitle any creditor to appoint a receiver or administrator or to petition for winding up or that would entitle a creditor to exercise any rights over or against the assets of Mulberry.

5.14 Litigation etc

No litigation or administrative or arbitration proceeding before or of any court, governmental authority, other tribunal or arbitrator or other third party is

presently taking place, pending or, to the best of the knowledge, information and belief of Mulberry, threatened against Mulberry or the Property.

6. GENERAL COVENANTS

6.1 Negative pledge and disposal restrictions

Mulberry shall not at any time, except with the prior written consent of Moat:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Property other than any Security created by this deed;
- (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Property; or
- (c) create or grant (or purport to create or grant) any interest in the Property in favour of a third party.

6.2 Preservation of Property

Mulberry shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by Moat or materially diminish the value of any of the Property or the effectiveness of the security created by this deed.

6.3 Compliance with laws and regulations

- (a) Mulberry shall not, without Moat's prior written consent, use or permit the Property to be used in any way contrary to law.
- (b) Mulberry shall:
 - (i) comply with the requirements of any law or regulation relating to or affecting the Property or the use of it or any part of it;
 - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Property or its use or that are necessary to preserve, maintain or renew any Property; and
 - (iii) promptly effect any maintenance, modifications, alterations or repairs to be effected on or in connection with the Property that are required to be made by it under any law or regulation.

6.4 Enforcement of rights

Mulberry shall use its best endeavours to:

- (a) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with Mulberry and

forming part of the Property of the covenants and other obligations imposed on such counterparty; and

- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Property that Moat may require from time to time.

6.5 Notice of misrepresentations and breaches

Mulberry shall, promptly on becoming aware of any of the same, give Moat notice in writing of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

6.6 Notices to be given by Mulberry

Mulberry shall obtain Moat's prior approval of the form of any notice or acknowledgement to be used under this clause 6.6.

7. PROPERTY COVENANTS

7.1 Repair and maintenance

Mulberry shall keep the Property, in good and substantial repair and condition.

7.2 Development restrictions

Mulberry shall not, without the prior written consent of Moat carry out or permit or suffer to be carried out on the Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit or suffer to be changed the use of the Property.

7.3 Leases and licences affecting the Property

Mulberry shall not, without the prior written consent of Moat (which consent, in the case of clause 7.3(d), is not to be unreasonably withheld or delayed in circumstances in which Mulberry may not unreasonably withhold or delay its consent):

- (a) grant any licence or tenancy affecting the whole or any part of the Property, or exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);

- (b) in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property);
- (c) let any person into occupation of or share occupation of the whole or any part of the Property; or
- (d) grant any consent or licence under any lease or licence affecting the Property.

7.4 No restrictive obligations

Mulberry shall not, without the prior written consent of Moat, enter into any onerous or restrictive obligations affecting the whole or any part of the Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of the Property.

7.5 Proprietary rights

Mulberry shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of the Property, without the prior written consent of Moat.

7.6 Compliance with and enforcement of covenants

Mulberry shall:

- (a) observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if Moat so requires) produce to Moat evidence sufficient to satisfy Moat that those covenants, stipulations and conditions have been observed and performed; and
- (b) diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same.

7.7 Notices or claims relating to the Property

- (a) Mulberry shall:
 - (i) give full particulars to Moat of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a Notice) that specifically applies to the Property, or to the

locality in which it is situated, within seven days after becoming aware of the relevant Notice; and

- (ii) (if Moat so requires) immediately, and at the cost of Mulberry, take all reasonable and necessary steps to comply with any Notice, and make, or join with Moat in making, any objections or representations in respect of that Notice that Moat thinks fit.

- (b) Mulberry shall give full particulars to Moat of any alleged breach of any Environmental Law, relating to the Property.

7.8 Payment of outgoings

Mulberry shall pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed upon the Property or on its occupier.

7.9 Environment

Mulberry shall comply with all the requirements of Environmental Law in respect of the Property

7.10 Inspection

Mulberry shall permit Moat and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice.

7.11 Specific covenant in relation to compulsory purchase

(a) Entry into negotiations

Mulberry will not without the previous consent in writing of Moat (and then only to the extent permitted by and in accordance with any conditions attached to that consent) enter into any negotiations with any local or other authority for or consent to the compulsory acquisition of the Property either in whole or in part.

(b) General covenant to comply with statutes etc

Mulberry will ensure that any legislation, regulations or bye-laws for the time being in force applicable to the Property are complied with in all respects.

8. POWERS OF MOAT

8.1 Power to remedy

- (a) Moat shall be entitled (but shall not be obliged) to remedy, at any time, a breach by Mulberry of any of its obligations contained in this deed.

- (b) Mulberry irrevocably authorises Moat and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by Moat in remedying a breach by Mulberry of its obligations contained in this deed shall be reimbursed by Mulberry to Moat on a full indemnity basis and shall carry interest in accordance with clause 14.1.
- (d) In remedying any breach in accordance with this clause 8.1, Moat, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as Moat may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

8.2 Exercise of rights

The rights of Moat under clause 8.1 are without prejudice to any other rights of Moat under this deed. The exercise of any rights of Moat under this deed shall not make Moat liable to account as a mortgagee in possession.

8.3 Moat has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by Moat in relation to any of the Property whether or not it has taken possession of any Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

9. WHEN SECURITY BECOMES ENFORCEABLE

9.1 Security becomes enforceable on Event of Default

The security constituted by this deed shall be immediately enforceable if an Event of Default occurs.

9.2 Discretion

After the security constituted by this deed has become enforceable, Moat may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Property.

10. ENFORCEMENT OF SECURITY

10.1 Enforcement powers

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between Moat

and a purchaser from Moat, arise on and be exercisable at any time after the execution of this deed, but Moat shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 9.1.

- (b) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

10.2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise Moat and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of Mulberry, to:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of Mulberry and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as Moat or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

10.3 Protection of third parties

No purchaser, mortgagee or other person dealing with Moat, any Receiver or Delegate shall be concerned to enquire whether any power Moat, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable.

10.4 Privileges

Each Receiver and Moat is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

10.5 No liability as mortgagee in possession

Neither Moat, any Receiver nor any Delegate shall be liable to account as mortgagee in possession in respect of all or any of the Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of

any nature in connection with, all or any of the Property for which a mortgagee in possession might be liable as such.

10.6 Relinquishing possession

If Moat, any Receiver or Delegate enters into or takes possession of the Property, it or he may at any time relinquish possession.

10.7 Conclusive discharge to purchasers

The receipt of Moat or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Property or in making any acquisition in the exercise of their respective powers, Moat, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

11. RECEIVERS

11.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of Mulberry, Moat may, without further notice, appoint by way of deed, or otherwise in writing, any one or more person or persons to be a Receiver of all or any part of the Property.

11.2 Removal

Moat may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

11.3 Remuneration

Moat may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by Moat.

11.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of Moat under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

11.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by Moat despite any prior appointment in respect of all or any part of the Property.

11.6 Agent of Mulberry

Any Receiver appointed by Moat under this deed shall be the agent of Mulberry and Mulberry shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until Mulberry goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of Moat.

12. POWERS OF RECEIVER

12.1 Powers additional to statutory powers

- (a) Any Receiver appointed by Moat under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 12.2 to clause 12.19.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of Mulberry, the directors of Mulberry or himself.

12.2 Repair and develop the Property

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

12.3 Grant or accept surrenders of leases

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms and subject to any conditions that he thinks fit.

12.4 Employ personnel and advisers

A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks

fit. A Receiver may discharge any such person or any such person appointed by Mulberry.

12.5 Make and revoke VAT options to tax

A Receiver may exercise or revoke any VAT option to tax that he thinks fit.

12.6 Charge for remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that Moat may prescribe or agree with him.

12.7 Realise Property

A Receiver may collect and get in the Property or any part of it in respect of which he is appointed and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Property with like rights.

12.8 Dispose of Property

A Receiver may grant options and licences over all or any part of the Property, grant any other interest or right over, sell, assign or lease (or concur in granting options and licences over all or any part of the Property, granting any other interest or right over, selling, assigning or leasing) all or any of the Property in respect of which he is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions that he thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Property to be disposed of by him.

12.9 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of Mulberry.

12.10 Give valid receipts

A Receiver may give valid receipts for all monies and execute all assurances and things that may be proper or desirable for realising any of the Property.

12.11 Make settlements

A Receiver may make any arrangement, settlement or compromise between Mulberry and any other person that he may think expedient.

12.12 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Property that he thinks fit.

12.13 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 14.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by Mulberry under this deed.

12.14 Powers under LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925 and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

12.15 Borrow

A Receiver may, for any of the purposes authorised by this clause 12, raise money by borrowing from Moat (or from any other person) either unsecured or on the security of all or any of the Property in respect of which he is appointed on any terms that he thinks fit (including, if Moat consents, terms under which that Security ranks in priority to this deed).

12.16 Redeem prior Security

A Receiver may redeem any prior Security and settle the accounts to which the Security relates. Any accounts so settled shall be, in the absence of any manifest error, conclusive and binding on Mulberry, and the monies so paid shall be deemed to be an expense properly incurred by Mulberry.

12.17 Delegation

A Receiver may delegate his powers in accordance with this deed.

12.18 Absolute beneficial owner

A Receiver may, in relation to any of the Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Property or any part of the Property.

12.19 Incidental powers

A Receiver may do any other acts and things:

- (a) that he may consider desirable or necessary for realising any of the Property;
- (b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law;
or
- (c) that he lawfully may or can do as agent for Mulberry.

13. DELEGATION

13.1 Delegation

Moat or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 16.1).

13.2 Terms

Moat and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

13.3 Liability

Neither Moat nor any Receiver shall be in any way liable or responsible to Mulberry for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

14. COSTS AND INDEMNITY

14.1 Costs

Mulberry shall, within five Business Days of demand, pay to, or reimburse, Moat and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by Moat, any Receiver or any Delegate in connection with taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of Moat's, a Receiver's or a Delegate's rights under this deed together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding-up or administration of Mulberry) at the Interest Rate.

14.2 Indemnity

- (a) Mulberry shall indemnify Moat, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:
 - (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Property;
 - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
 - (iii) any default or delay by Mulberry in performing any of its obligations under this deed.
- (b) Any past or present employee or agent may enforce the terms of this clause 14.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

15. FURTHER ASSURANCE

15.1 Further assurance

Mulberry shall, at its own expense, take whatever action Moat or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security intended to be created by this deed;
- (b) facilitating the realisation of any of the Property; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by Moat or any Receiver in respect of any of the Property, including, without limitation (if Moat or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Property (whether to Moat or to its nominee) and the giving of any notice, order or direction and the making of any registration.

16. POWER OF ATTORNEY

16.1 Appointment of attorneys

By way of security, Mulberry irrevocably appoints Moat, every Receiver and every Delegate separately to be the attorney of Mulberry and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) Mulberry is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on Moat, any Receiver or any Delegate.

16.2 Ratification of acts of attorneys

16.3 Mulberry ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 16.1.

17. RELEASE

On the expiry of the Security Period (but not otherwise), Moat shall, at the request and cost of Mulberry, take whatever action is necessary to release the Property from the security constituted by this deed.

18. ASSIGNMENT AND TRANSFER

Mulberry and Moat may not assign any of their rights, or transfer any of its rights or obligations, under this deed.

19. AMENDMENTS, WAIVERS AND CONSENTS

19.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

19.2 Waivers and consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or

any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by Moat shall be effective unless it is in writing.

19.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

20. SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

21. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

22. THIRD PARTY RIGHTS

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

23. FURTHER PROVISIONS

23.1 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

24. NOTICES

24.1 Delivery

Any notice or other communication given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and
- (c) sent to:
 - (i) Mulberry at the address stated in the parties clause of this deed, marked for the attention of Oliver Davis.
 - (ii) Moat at address stated in the parties clause of this deed, marked for the attention of Thomas Murrels

or to any other address or fax number as is notified in writing by one party to the other from time to time.

24.2 Receipt

Any notice or other communication given by one party to the other shall be deemed to have been received

- (a) if delivered by hand, at the time it is left at the relevant address; and
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting;

A notice or other communication given as described in clause 24.2(a) or clause 24.2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

24.3 Service of proceedings

This clause 24 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24.4 No notice by e-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail.

25. GOVERNING LAW AND JURISDICTION

25.1 Governing law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

25.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of Moat to take proceedings against Mulberry in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

25.3 Other service

Mulberry irrevocably consents to any process in any legal action or proceedings under clause 25.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

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

**The Schedule
the Property**

The freehold property at Tenacre Court, Ashford Road, Harrietsham, Maidstone ME17 1AH and registered at HM Land Registry with title absolute under title number K718574 and partly under title number K692124 and as shown edged green on the plan annexed to this deed

SIGNED as a **DEED**
by **MULBERRY TREE HOLDINGS**
LTD by a Director
in the presence of:

)
)
)
)



Witness Signature P. Moorey

Witness Name LEE MOOREY

Witness Address HORIZON HOUSE, ECLIPSE PARK, SUTTONS BOURNE ROAD
MATTHEWSTONE, KENT ME14 3BN

Witness Occupation

SIGNED as a **DEED**
by **MOAT HOMES**
LIMITED by a Director in the
presence of:-

)
)
)
)

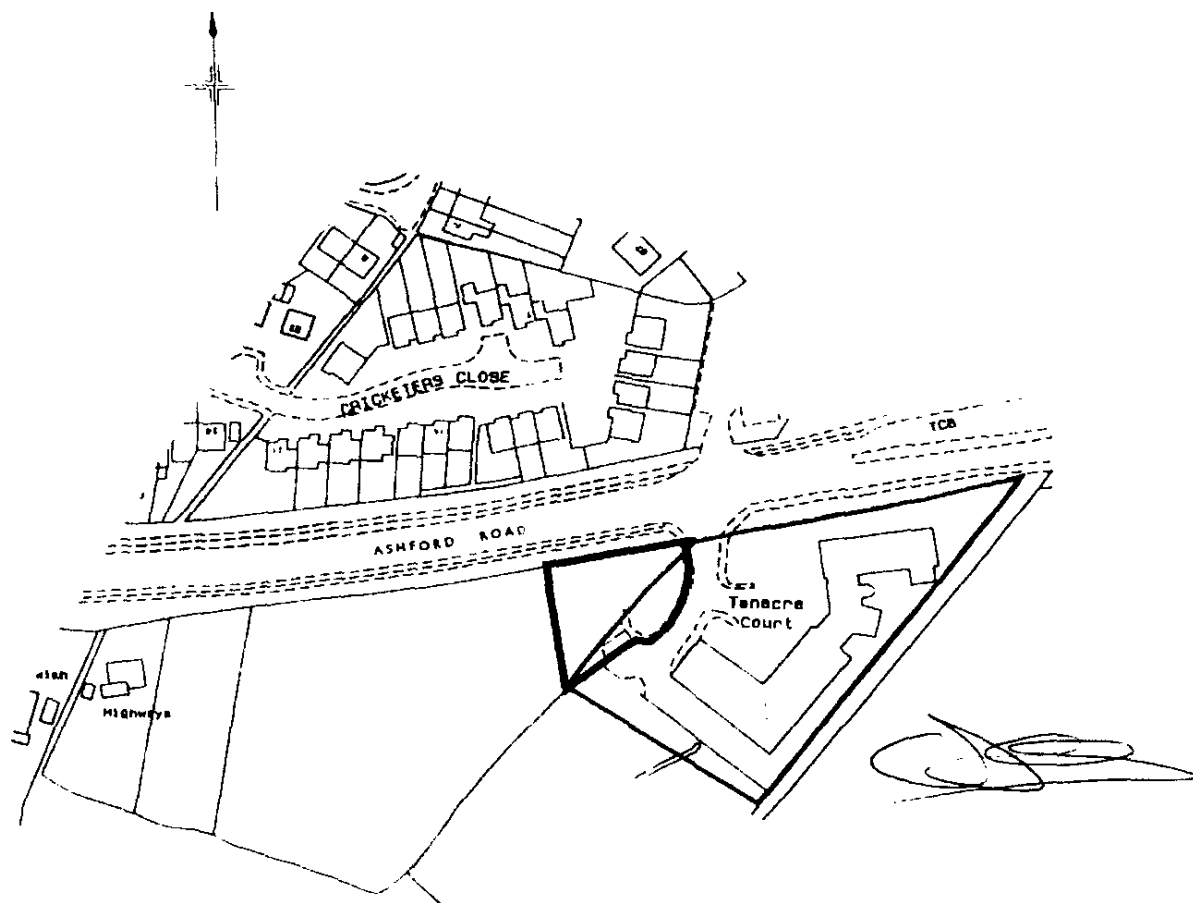
Witness Signature

Witness Name

Witness Address

Witness Occupation

| | | | |
|-----------------------------------|--------------------|--------------|--------------------------------------|
| LM3 | | TITLE NUMBER | |
| H.M. LAND REGISTRY | | | |
| ORDNANCE SURVEY PLAN REFERENCE | TQ 8652 | SECTION C | Scale 1/1250 Enlarged from 1/2500 |
| COUNTY KENT | DISTRICT MAIDSTONE | | |



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