Companies House

MR01(ef)

Registration of a Charge

Company name: **INTU PROPERTY SERVICES LIMITED**

Company number: **01994351**

Received for Electronic Filing: **04/01/2019**

X7WELKWY

Details of Charge

Date of creation: **21/12/2018**

Charge code: **0199 4351 0001**

Persons entitled: **LLOYDS BANK PLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SHEENA WELLS**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1994351

Charge code: 0199 4351 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st December 2018 and created by INTU PROPERTY SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th January 2019 .

Given at Companies House, Cardiff on 8th January 2019

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

EVERSHEDS SUTHERLAND

We certify this document as a true copy of the original, save for material redacted pursuant to section 859G Companies Act 2006

Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP One Wood Street London EC2V 7WS United Kingdom

T: +44 20 7497 9797
F: +44 20 7919 4919
DX 154280 Cheapside 8

eversheds-sutherland.com

Dated: 21 December 2018

(1) INTU PROPERTY SERVICES LIMITED as Chargor

(2) LLOYDS BANK PLC as Security Agent

Share Charge

---

relating to the shares in Broadmarsh Retail General Partner Limited

CONTENTS

Clause		Page
1	DEFINITIONS AND INTERPRETATION	1
2	COVENANT TO PAY	3
3	GRANT OF SECURITY	4
4	REPRESENTATIONS	4
5	UNDERTAKINGS	7
6	RIGHTS OF ENFORCEMENT	9
7	POWERS OF A RECEIVER	11
8	PAYMENTS AND ACCOUNTS	11
9	APPLICATION OF PROCEEDS	12
10	PROTECTION OF THIRD PARTIES	13
11	PROTECTION OF SECURITY AGENT	13
12	SAVING PROVISIONS	14
13	CHANGES TO THE PARTIES	16
14	NOTICES	16
15	COUNTERPARTS	17
16	GOVERNING LAW	17
17	ENFORCEMENT	17
Schedules		
1	The Specified Shares	18

THIS DEED is made on 21 December 2018 between:

(1) **INTU PROPERTY SERVICES LIMITED**, registered in England and Wales (registered number 01994351) at 40 Broadway, London, SW1H 0BT, as chargor (the "**Chargor**"); and

(2) **LLOYDS BANK PLC** as security trustee for the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Deed:

"**Associated Benefits**" means, in respect of any asset:

(a) all monies including (where relevant) all dividends, distributions, profits, compensation, damages, income or interest paid or payable relating to that asset; and

(b) all Authorisations, rights, benefits, claims or property at any time relating to that asset.

"**Borrower**" means The Broadmarsh Retail Limited Partnership, an English limited partnership registered under the Limited Partnerships Act 1907 (Registered No. LP006804), whose registered office is at 40 Broadway, London SW1H 0BT, acting through the General Partner.

"**Centre of Main Interests**" means, in respect of the Chargor, the "centre of main interests" of the Chargor as that term is used in Article 3(1) of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast).

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"**Enforcement Event**" means the delivery by the Agent of a notice under clause 24.23 (*Acceleration*) of the Facility Agreement.

"**Facility Agreement**" means the facility agreement dated on or about the date of this Deed between, amongst others, the Borrower, the General Partner, the Security Agent and the Finance Parties.

"**Finance Document**" has the meaning given to that term in the Facility Agreement.

"**Finance Party**" means the Agent, the Security Agent, the Arranger, a Hedge Counterparty or a Lender.

"**General Partner**" means Broadmarsh Retail General Partner Limited, a private limited company, registered in England and Wales with company number 03929726, whose registered office is at 40 Broadway, London, SW1H 0BT.

"**Insolvency Act**" means the Insolvency Act 1986.

"**Insolvency Event**" means any circumstance described in clause 24.6 (*Insolvency*), clause 24.7 (*Insolvency proceedings*) or clause 24.8 (*Appointment of receivers and managers*) of the Facility Agreement, in respect of the Chargor and such that references to an "Obligor, Intu Shopping, any Replacement Guarantor or the Contractor" in these clauses of the Facility Agreement shall be construed as references to the Chargor.

"**Investments**" means:

(a) the Specified Shares; and

(b) all other stocks, shares, bonds, securities or investments issued by the General Partner.

"**LPA**" means the Law of Property Act 1925.

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business or financial condition of the Chargor; or

(b) the ability of the Chargor to perform its obligations under this Deed; or

(c) the validity or enforceability of any Security granted or purporting to be granted pursuant to this Deed (where the Security granted pursuant to this Deed is invalid or unenforceable or has become ineffective).

"**Original Jurisdiction**" means the jurisdiction under whose laws the Chargor is incorporated as at the date of this Deed.

"**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Secured Property.

"**Relevant Jurisdiction**" means, in relation to the Chargor:

(a) its Original Jurisdiction;

(b) any jurisdiction where any asset which is or is intended to be Secured Property is situated;

(c) any jurisdiction where it conducts its business; and

(d) the jurisdiction whose laws govern the perfection of this Deed.

"**Secured Liabilities**" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document.

"**Secured Party**" means a Finance Party, a Receiver or any Delegate.

"**Secured Property**" means the assets of the Chargor which from time to time are, or are expressed to be, the subject of any Security created by this Deed.

"**Specified Shares**" means any shares specified in Schedule 1 (*The Specified Shares*).

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

1.2 **Construction**

1.2.1 Unless a contrary indication appears, in this Deed:

1.2.1.1 terms defined in the Facility Agreement have the same meaning in this Deed;

1.2.1.2 the provisions of clause 1.2 (*Construction*) of the Facility Agreement (with the exception of clause 1.2(d)) apply to this Deed as if set out in full in this Deed, except that references to the Facility Agreement shall be construed as references to this Deed; and

1.2.1.3 all provisions in the Facility Agreement that are deemed to apply to the Finance Documents apply to this Deed as if set out in full in this Deed.

1.2.2 Unless a contrary indication appears, any reference in this Deed to:

1.2.2.1 any "**asset**" includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;

1.2.2.2 any "**disposal**" includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and "**dispose**" will be construed accordingly; and

1.2.2.3 a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, replaced or restated (however fundamentally).

1.2.3 Where this Deed includes the words "**including**", "**in particular**" or "**or otherwise**" (or similar words or phrases), the intention is to state examples and not to be exhaustive.

1.2.4 References to any Security "**created by this Deed**" are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Deed.

1.3 **Third party rights**

1.3.1 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.

1.3.2 Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

1.3.3 Any Receiver, Delegate or any person described in paragraph (b) of clause 28.11 (*Exclusion of liability*) of the Facility Agreement may, subject to this Clause 1.3 and the Third Parties Act, rely on any clause of this Deed which expressly confers rights on it.

2. COVENANT TO PAY

2.1 The Chargor, as principal debtor and not just as surety, covenants with the Security Agent to pay or discharge the Secured Liabilities.

2.2 The total amount recoverable by the Secured Parties from the Chargor in relation to the Secured Liabilities shall be limited to the amount realised from the proceeds of sale or other disposal or realisation of the Secured Property together with all costs, expenses, interest and other amounts payable by the Chargor under the terms of this Deed.

2.3 Clause 2.2 shall only limit the liability of the Chargor for the discharge of the Secured Liabilities and shall not:

2.3.1 reduce or discharge the Secured Liabilities themselves or limit or restrict the accrual of interest (including default interest) on any amount; or

2.3.2 limit the rights of any Secured Party to recover any amount from any person other than the Chargor under or in connection with the Finance Documents.

3. GRANT OF SECURITY

3.1 Fixed charges

The Chargor charges by way of first fixed charge:

3.1.1 all its Specified Shares;

3.1.2 all its Investments (other than its Specified Shares charged under Clause 3.1.1); and

3.1.3 all Associated Benefits relating to its Secured Property.

3.2 General

All Security created by this Deed:

3.2.1 is created in favour of the Security Agent, as security trustee for the Secured Parties;

3.2.2 unless specifically stated otherwise, is created over the present and future assets of the Chargor to the extent of its rights, title and interest in, under and to such assets at any time; and

3.2.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.3 Continuing security

The Security created by this Deed is continuing security for the payment and discharge of the Secured Liabilities. The provisions of this Deed will apply at all times:

3.3.1 regardless of the date on which any of the Secured Liabilities were incurred;

3.3.2 notwithstanding any intermediate payment or discharge; and

3.3.3 in respect of the full amount of the Secured Liabilities at the relevant time even if the amount of the Secured Liabilities had previously been less than that amount or had been nil at any time.

3.4 Additional security

The Security created by this Deed is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party. No prior Security held by any Secured Party over the whole or any of the Secured Property will merge with the Security created by this Deed.

3.5 Validity of details of Specified Shares

The fact that incorrect or incomplete details of any Specified Shares are included or inserted in Schedule 1 (*The Specified Shares*) will not affect the validity or enforceability of the Security created by this Deed.

4. REPRESENTATIONS

The Chargor makes the representations and warranties set out in this Clause 4 to each Secured Party on the date of this Deed.

4.1 **Status**

1.1.1 It is a limited liability company, duly incorporated and validly existing under the law of its Original Jurisdiction.

1.1.2 It has the power to own its assets and carry on its business as it is being conducted.

4.2 **Binding obligations**

The obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations subject to any qualification as to matters of law referred to in any legal opinion delivered under Schedule 2 (*Conditions Precedent*) to the Facility Agreement.

4.3 **Non-conflict with other obligations**

4.3.1 The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the Security created by this Deed do not and will not conflict with:

4.3.1.1 any applicable law or regulation or judicial or official order;

4.3.1.2 any regulation to the extent or in a manner which would be reasonably likely to have a Material Adverse Effect;

4.3.1.3 its constitutional documents; or

4.3.1.4 any agreement or instrument binding upon it or any of its assets, where such conflict has or is reasonably likely to have a Material Adverse Effect.

4.3.2 The entry into and performance by it of this Deed, and the transactions contemplated by this Deed, do not constitute a default or termination event (however described) under any agreement or instrument binding upon it or any of its assets, where such default or event has or is reasonably likely to have a Material Adverse Effect.

4.4 **Power and authority**

4.4.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

4.4.2 No limit on its powers will be exceeded as a result of the grant of Security or giving of guarantees or indemnities contemplated by this Deed.

4.5 **Validity and admissibility in evidence**

All Authorisations required in connection with the entry into, performance, validity and enforceability of this Deed and the transactions contemplated by this Deed, have been obtained or effected (as appropriate) and are in full force and effect.

4.6 **Governing law and enforcement**

4.6.1 The choice of English law as the governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.

4.6.2 Any judgment obtained in England and Wales in relation to this Deed will be recognised and enforced in its Relevant Jurisdictions.

4.7 **No filing or stamp taxes**

Under the laws of its Relevant Jurisdictions it is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of particulars of this Deed at Companies House under the Companies Act 2006 and payment of associated fees, which will be made and paid promptly after the date of this Deed.

4.8 **Information**

4.8.1 All written information supplied by it or on its behalf to any Secured Party in connection with this Deed or any Secured Property was true, complete and accurate in all material respects as at its date.

4.8.2 The information did not omit as at its date any information which made the information referred to in clause 4.9.1 misleading in any material respect.

4.8.3 As at the first Utilisation Date, nothing has occurred since the date of the information referred to in Clause 4.8.1 which, if disclosed, would make that information untrue, incomplete, inaccurate or misleading in any material respect.

4.9 ***Pari passu* ranking**

Its payment obligations under this Deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

4.10 **Centre of main interests and establishments**

Its Centre of Main Interests is situated in the United Kingdom and it has no establishment (as that term is used in Article 2(10) of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast)) in any other jurisdiction.

4.11 **Ranking of Security**

The security conferred by this Deed constitutes a first priority security interest of the type described, over the assets referred to, in this Deed and those assets are not subject to any prior or pari passu Security.

4.12 **Sanctions**

4.12.1 The Chargor or, to the knowledge of the Chargor, any director of the Chargor or any member of the Chargor's group:

4.12.1.1 is not currently the target of any sanctions, regulations or embargoes or listed on any sanctions list administered by the Office of Foreign Assets Control of the U.S. Treasury Department or any equivalent sanctions or measures imposed by the United Nations and/or the European Union and/or Her Majesty's Treasury or any other relevant sanctions authority (collectively, "**Sanctions**"); and

4.12.1.2 has not received notice of any action, suit, proceeding or investigation against it in relation to any Sanctions.

4.12.2 The Chargor has not violated, nor is in violation of, any provision of the Bribery Act 2010 (the "**Bribery Act**") or any other law or regulation applicable to it in relation to anti-corruption, money laundering, and financial crime and the Chargor maintains at all times adequate systems, controls, and procedures designed to prevent persons associated with it (as defined in the Bribery Act) from committing the offences referred to in section 7(3) of the Bribery Act.

4.13 **Secured Property**

4.13.1 The entire issued share capital of the General Partner is, legally and beneficially, directly owned and controlled by the Chargor.

4.13.2 It is the sole legal and beneficial owner of, and has good and marketable title to, the Secured Property, in each case, free from Security or restrictions (other than those created by or pursuant to the Finance Documents).

4.13.3 The shares in the capital of the General Partner are fully paid and are not subject to any option to purchase or similar rights.

4.13.4 The constitutional documents of the General Partner do not and could not restrict or inhibit any transfer of the shares of the General Partner on creation or enforcement of the Security conferred by this Deed.

4.14 **Repetition**

Each of the representations and warranties set out in this Clause 4 are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period.

5. **UNDERTAKINGS**

The undertakings in this Clause 5 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

5.1 **Negative pledge**

The Chargor may not create or permit to subsist any Security over or in respect of any Secured Property other than as permitted under the Facility Agreement.

5.2 **Disposals**

The Chargor shall not, without the consent of the Majority Lenders, enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, transfer, lease or otherwise dispose of all or any part of any Secured Property, other than as permitted under the Facility Agreement.

5.3 **Documents relating to Secured Property**

The Chargor shall:

5.3.1 promptly (and in any case within 5 Business Days) following the date of this Deed (in the case of any Secured Property existing on the date of this Deed), promptly (and in any case within 5 Business Days) following the date of acquisition or receipt of any Secured Property (in the case of any Secured Property acquired or received after the date of this Deed) and, at any other time, as soon as reasonably practicable upon request by the Security Agent, deposit with the Security Agent:

5.3.1.1 all documents of title or other evidence of ownership relating to its Secured Property;

5.3.1.2 transfers of the Investments, each executed in blank; and

5.3.1.3 such deeds, certificates and documents relating to its Secured Property as the Security Agent may reasonably request.

5.4 **Maintenance of Secured Property**

The Chargor may not:

5.4.1 take or permit the taking of any action which may materially and adversely affect the value of any of the Secured Property, prejudice the interests of any Secured Party under any Finance Document or result in the rights attaching to any of the Secured Property being altered or diluted; or

5.4.2 except where the Security Agent so requires or permits, nominate another person to enjoy or exercise any of its rights in relation to any of the Secured Property.

5.5 **Dividends and voting rights**

5.5.1 Subject to Clause 5.4 (*Maintenance of Secured Property*) and provided that no Enforcement Event has occurred, the Chargor may:

5.5.1.1 receive and retain all dividends or other income paid or payable in respect of its Investments; and

5.5.1.2 exercise all voting and other rights attaching to its Investments,

provided that it does so for a purpose not inconsistent with any Finance Document.

5.5.2 Following the occurrence of an Enforcement Event, the Chargor shall:

5.5.2.1 hold any dividends or other income received in respect of the Investments on trust for the Security Agent and pay as soon as reasonably practicable such amounts into a separate account or otherwise as the Security Agent may direct; and

5.5.2.2 exercise all voting and other rights attaching to the Investments as the Security Agent may direct.

5.6 **Further assurance**

The Chargor shall promptly take all such actions, including executing all such documents, notices and instructions as the Security Agent may determine to be necessary (acting reasonably, while no Default is continuing) in such form as the Security Agent may reasonably require:

5.6.1 to create, perfect, protect and (if necessary) maintain the Security created by this Deed or for the exercise of any rights, powers and remedies of the Secured Parties provided by or under this Deed or by law or regulation; and/or

5.6.2 following the occurrence of an Enforcement Event, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this Deed.

5.7 **Power to remedy**

If the Chargor fails to comply with any of its obligations under this Deed, the Security Agent (or its nominee) may (at the Chargor's expense), with advance notice to the Chargor (but, following an Event of Default, only if it is reasonably practicable to provide such advance notice) take such action as is necessary to protect any assets against the

consequences of the Chargor's non-compliance and/or to ensure compliance with such obligations. The Security Agent is not obliged to perform any obligation of the Chargor nor to take any action which it may be entitled to take under this Deed.

5.8 **Power of attorney**

5.8.1 As security for the performance of its obligations under this Deed, the Chargor irrevocably appoints the Security Agent, each Receiver and each Delegate to be its attorney, with full power of substitution.

5.8.2 Each attorney may, in the name of the Chargor and on its behalf and at its expense, do anything which the Chargor is obliged to do under any Finance Document to which it is a party (but has failed to do within any time period permitted for performance by it of any such obligation) or which the Security Agent, Receiver or Delegate may:

5.8.2.1 prior to the occurrence of a Default, determine to be necessary (acting reasonably); or

5.8.2.2 following the occurrence of a Default, in their absolute discretion consider appropriate,

in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Secured Property or under or otherwise for the purposes of any Finance Document or any law or regulation.

5.8.3 The Chargor ratifies and confirms anything done by any attorney under this Clause 5.8.

6. **RIGHTS OF ENFORCEMENT**

6.1 **Secured Liabilities deemed payable**

For the purposes of all rights and powers implied by statute, the Secured Liabilities are due and payable on the date of this Deed.

6.2 **When Security enforceable**

The Security created by this Deed is enforceable at any time following the occurrence of an Enforcement Event.

6.3 **Enforcement powers**

At any time (a) when the Security created by this Deed is enforceable or (b) following a request by the Chargor, the Security Agent may, without further notice:

6.3.1 sell, appropriate, realise or transfer, including to itself or to any other person, all or any part of the Secured Property;

6.3.2 appoint one or more persons to be a Receiver of all or any part of the Secured Property;

6.3.3 exercise any of the powers, authorities and discretions conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed; and/or

6.3.4 take such further action as it sees fit to enforce all or any part of the Security created by this Deed.

6.4 **Rights in relation to a Receiver**

With notice to the Chargor, the Security Agent may remove any Receiver appointed under this Deed, appoint another person as Receiver or appoint additional Receivers. Each Receiver will be deemed to be the agent of the Chargor who alone will be responsible for the acts and defaults of the Receiver and for any liabilities incurred by the Receiver (other than, in each case, those caused by the Receiver's gross negligence or wilful misconduct). The Security Agent may fix the remuneration of a Receiver which will be payable by the Chargor and form part of the Secured Liabilities.

6.5 **Redemption of prior Security**

Where there is any Security created over any of the Secured Property which ranks in priority to the Security created by this Deed and:

6.5.1 the Security created by this Deed becomes enforceable; and/or

6.5.2 the holder of such other Security takes any steps to enforce that Security,

the Security Agent or any Receiver may, at its sole discretion and at the cost and expense of the Chargor, redeem, take a transfer of and/or repay the indebtedness secured by such other Security. All amounts paid by the Security Agent or a Receiver under this Clause will form part of the Secured Liabilities.

6.6 **Appropriation of payments**

Any appropriation by the Security Agent or a Receiver under this Deed will override any appropriation by the Chargor.

6.7 **Financial collateral**

6.7.1 To the extent that any of the assets charged under this Deed constitute "financial collateral" and this Deed constitutes a "financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**FC Regulations**")), the Security Agent will have the right at any time when such Security is enforceable to appropriate all or any part of that financial collateral in such manner as it sees fit in or towards the satisfaction of the Secured Liabilities.

6.7.2 Where any financial collateral is appropriated, its value shall be:

6.7.2.1 in the case of cash, its face value at the time of the appropriation;

6.7.2.2 if the financial collateral is listed or traded on a recognised exchange, the value at which it could have been sold on that exchange at the time of appropriation; and

6.7.2.3 in any other case, the amount reasonably determined by the Security Agent by such process as it may select, including independent valuation,

and the Chargor agrees that the method of valuation provided for in this Clause 6.7.2 is commercially reasonable for the purposes of the FC Regulations.

6.8 **Demands**

Any demand for payment made by any Secured Party shall, to the extent that any of the Secured Liabilities referred to therein are due and payable, be valid and effective even if it contains no statement of the relevant Secured Liabilities or an inaccurate or incomplete statement of them.

7. POWERS OF A RECEIVER

7.1 General powers

Any Receiver will have:

7.1.1 the rights, powers, privileges and immunities conferred on receivers, receivers and managers and mortgagees in possession under the LPA;

7.1.2 the rights, powers, privileges and immunities conferred on administrative receivers (whether or not that Receiver is an administrative receiver) under the Insolvency Act; and

7.1.3 all other rights, powers, privileges and immunities conferred by law or regulation on receivers, receivers and managers, mortgagees in possession and administrative receivers.

7.2 Specific powers

The rights, powers and remedies provided in this Deed are in addition to any rights, powers and remedies under law or regulation. Any Receiver will have the following additional powers:

7.2.1 the power to do or omit to do anything which the Chargor could do or omit to do in relation to the Secured Property which is the subject of the appointment;

7.2.2 the power to do all other acts and things which the Receiver may consider desirable or necessary for realising any of the Secured Property or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law or regulation; and

7.2.3 the power to use the Chargor's name for all the above purposes.

7.3 Variation of statutory powers

The following statutory provisions do not apply to this Deed or any Security created by this Deed:

7.3.1 the restriction on the consolidation of mortgages in section 93 of the LPA;

7.3.2 the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 of the LPA;

7.3.3 the conditions to the exercise of a power of sale in section 103 of the LPA;

7.3.4 the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) of the LPA; and

7.3.5 the restrictions on the appointment of a receiver in section 109(1) of the LPA and the provisions regarding a receiver's remuneration in section 109(6) of the LPA.

8. PAYMENTS AND ACCOUNTS

8.1 Set-off and other remedies

8.1.1 All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

8.1.2 While an Event of Default is continuing a Secured Party may set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

8.1.3 While an Event of Default is continuing, a Secured Party may, at any time, combine or consolidate any accounts held by it for the Chargor.

8.2 **VAT**

Clause 12.7 (*VAT*) of the Facility Agreement applies to this Deed as if set out in full in this Deed, except that references to a Party shall be construed as references to a party to this Deed.

8.3 **General**

8.3.1 Subject to Clause 8.3.2, sterling is the currency of payment for any sum due from the Chargor under this Deed.

8.3.2 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

8.3.3 If the Chargor pays any amount in a different currency, it shall as an independent obligation promptly on demand indemnify each Secured Party against any cost, loss or liability arising out of or as a result of the conversion into the required currency.

8.3.4 All amounts payable by the Chargor under this Deed shall be paid promptly on demand by, and in accordance with the instructions of, the Security Agent.

8.3.5 Any certification or determination by any Secured Party of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

8.3.6 Any demand for payment made by the Security Agent shall be valid and effective even if it contains no statement of the relevant liabilities or an inaccurate or incomplete statement of them. The Security Agent may make any number of demands under this Deed.

9. **APPLICATION OF PROCEEDS**

9.1 **Order of priority**

All amounts received by any Secured Party in connection with the enforcement of the Security created by this Deed will be applied, to the extent permitted by applicable law, in accordance with the provisions of the Facility Agreement.

9.2 **New accounts**

If at any time:

9.2.1 any of the Chargor's obligations cease to be continuing obligations for any reason; or

9.2.2 a Secured Party receives or is deemed to have received notice of subsequent Security over any of the Secured Property,

each Secured Party may open a new account with the Chargor. If a Secured Party does not open a new account, it will be treated as having done so at the time when the Chargor's obligations cease to be continuing obligations or, as the case may be, the relevant notice of subsequent security was received and, as from that time, all payments made by or on behalf of the Chargor to that Secured Party will be credited or be treated as having been credited to the relevant new account and not as having been applied in discharge of the Secured Liabilities.

9.3 **Release of Secured Property**

9.3.1 If the Security Agent is satisfied that all the Secured Liabilities have, subject to Clauses 12.1 (*Reinstatement*) and 12.2 (*Avoidable payments*), been unconditionally and irrevocably paid and discharged in full and all facilities which could reasonably be expected to give rise to Secured Liabilities terminated, the Security Agent will, at the request and cost of the Chargor:

9.3.1.1 release, reassign or discharge (as appropriate) the Secured Property;

9.3.1.2 execute such documents and take such steps necessary to release the Secured Property from the Security created by this Deed; and

9.3.1.3 return all documents of title, transfer documents and other documentation relating to the Secured Property which it holds (or which is being held to its order).

9.3.2 The Security Agent shall, at the request and cost of the Chargor, as soon as reasonably practicable following a request from the Chargor, release, reassign or discharge (as appropriate) any Secured Property which is subject to a disposal by the Chargor permitted under the Facility Agreement.

10. **PROTECTION OF THIRD PARTIES**

10.1 No buyer from, or other person dealing with, any Secured Party will be concerned to enquire whether:

10.1.1 any money remains due under the Finance Documents;

10.1.2 any power which that Secured Party is purporting to exercise has arisen or become exercisable; or

10.1.3 that Secured Party is validly appointed and acting within its powers in accordance with this Deed.

10.2 The receipt of any Secured Party will be an absolute and conclusive discharge to a purchaser of any of the Secured Property who will have no obligation to enquire how any monies are applied.

11. **PROTECTION OF SECURITY AGENT**

11.1 **No liability as mortgagee in possession**

No Secured Party will be liable to account to the Chargor as mortgagee in possession by reason of entering into possession of any of the Secured Property, nor for any cost, loss or liability on realisation, nor for any default or omission for which a mortgagee in possession might be liable unless, in each case, directly caused by the relevant Secured Party's gross negligence or wilful misconduct.

11.2 **Tacking**

The Security created by this Deed is intended to secure any further advances which any Secured Party is obliged to make under the Finance Documents.

11.3 **Discretion of the Secured Parties**

Each Secured Party is entitled to exercise its rights, powers and discretions under this Deed in accordance with the terms of the Finance Documents and the Chargor does not have any right to control or restrict any Secured Party's exercise of any of its rights, powers or discretions under this Deed.

12. **SAVING PROVISIONS**

12.1 **Reinstatement**

If, at any time, there has been a release, settlement or discharge of the Chargor's obligations under this Deed and, as a consequence of any Insolvency Event or for any other reason:

12.1.1 any payment made to any person in respect of any of the Secured Liabilities is required to be repaid; and/or

12.1.2 any Security (or other right) held by the Secured Parties in respect of any of the Secured Liabilities (whether under this Deed or otherwise) is declared void, is set aside or is otherwise affected,

then the Chargor's obligations under this Deed will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and/or (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Secured Parties' other rights under this Deed) the Security Agent will be entitled to recover from the Chargor the value which the Security Agent has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

12.2 **Avoidable payments**

If the Security Agent, acting reasonably, considers that any amount paid by or on behalf of the Chargor in respect of the Secured Liabilities could reasonably be expected to be avoided, set aside or ordered to be refunded or reduced for any reason then, for the purposes of this Deed, such amount will not be considered to have been irrevocably paid.

12.3 **Waiver of defences**

The obligations of the Chargor under this Deed and the Security created by this Deed will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed or the Security created by this Deed (without limitation and whether or not known to it or any Secured Party) including:

12.3.1 any time, waiver or consent granted to, or composition with, the Chargor, any Obligor or any other person;

12.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;

12.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor, any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

12.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor, any Obligor or any other person;

12.3.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;

12.3.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or

12.3.7 any insolvency or similar proceedings.

12.4 **Chargor Intent**

Without prejudice to the generality of Clause 12.3 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

12.5 **Immediate recourse**

The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

12.6 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

12.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

12.6.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

12.7 **Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under the Finance Documents:

12.7.1 to be indemnified by any Obligor;

12.7.2 to claim any contribution from any Obligor or guarantor of any Obligor's obligations under the Finance Documents;

12.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;

12.7.4 to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity;

12.7.5 to exercise any right of set-off against any Obligor; and/or

12.7.6 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 9.1 (*Order of priority*).

13. CHANGES TO THE PARTIES

13.1 No assignment by Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Deed.

13.2 Assignment by Security Agent

The Security Agent may assign any of its rights or transfer any of its rights or obligations under this Deed in accordance with the terms of the Facility Agreement.

14. NOTICES

14.1 Communications

Any communication to be made under or in connection with this Deed shall be made in English, in writing and, unless otherwise stated, may be made by fax or letter.

14.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below or any substitute address or fax number or department or officer as the party to this Deed may notify to the Security Agent (or the Security Agent may notify to the other parties to this Deed, if a change is made by the Security Agent) by not less than five Business Days' notice.

14.3 Delivery

14.3.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

14.3.1.1 if by way of fax, when received in legible form; or

14.3.1.2 if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 14.2 (*Addresses*), if addressed to that department or officer.

14.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

14.3.3 Any communication or document which becomes effective, in accordance with Clauses 14.3.1 and 14.3.2, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

14.4 **English language**

Any notice or document given or provided under or in connection with this Deed must be in English.

15. **COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

16. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

17. **ENFORCEMENT**

17.1 **Jurisdiction**

17.1.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").

17.1.2 The parties to this Deed agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Deed will argue to the contrary.

17.1.3 This Clause 17 is for the benefit of the Secured Parties only. As a result, no Secured Party will be prevented from taking proceedings relating to a Dispute in any other court with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

This Deed is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

The Specified Shares

General Partner	Registration number (or equivalent, if any)	Number and class of shares
Broadmarsh Retail General Partner Limited	03929726	1,000 Ordinary shares of £1 each

EXECUTION

The Chargor

Executed as a deed by)
INTU PROPERTY SERVICES LIMITED,)
) .....

acting by one director in the presence of:

Witness signature: [redacted]

Witness name: W WARNER

Witness address: 40 Broadway, SW1H 0BT

Director

Name: David Andrew Fischel

Communications to be delivered to:
Address: 40 Broadway, London, SW1H 0BT

Fax number:
Attention: Susan Marsden

The Security Agent

Executed as a deed by _____,)
as attorney for **LLOYDS BANK PLC**,)
in the presence of:)

Witness signature:

Witness name:

Witness address:

.....
as attorney for **LLOYDS BANK PLC**

Communications to be delivered to:
Address: 4th Floor, 10 Gresham Street, London EC2V 7AE

Fax number:
Attention: Commercial Real Estate

EXECUTION

The Chargor

Executed as a deed by)
INTU PROPERTY SERVICES LIMITED,)
)
acting by one director in the presence of:

Witness signature:

Witness name:

Witness address:

.....

Director

Name:

Communications to be delivered to:
Address: 40 Broadway, London, SW1H 0BT

Fax number:
Attention: Susan Marsden

The Security Agent

Executed as a deed by MARK DUNCAN)
as attorney for **LLOYDS BANK PLC**,)
in the presence of:)

Witness signature: [redacted]

Witness name: ALICE TUFFY

Witness address: 10 GRESHAM ST
LONDON
EC2V 7AE

..... [redacted]

as attorney for **LLOYDS BANK PLC**

Communications to be delivered to:
Address: 4th Floor, 10 Gresham Street, London EC2V 7AE

Fax number:
Attention: Commercial Real Estate