



**Registration of a Charge**

Company name: **LEGAL & GENERAL PROPERTY LIMITED**

Company number: **02091897**



X68QE6PM

Received for Electronic Filing: **16/06/2017**

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**Details of Charge**

Date of creation: **01/06/2017**

Charge code: **0209 1897 0021**

Persons entitled: **WELLS FARGO N.A., LONDON BRANCH (AS SECURITY AGENT)**

Brief description: **N/A.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **ALLEN & OVERY LLP**



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

Company number: 2091897

Charge code: 0209 1897 0021

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st June 2017 and created by LEGAL & GENERAL PROPERTY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th June 2017 .

Given at Companies House, Cardiff on 16th June 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

# SHAREHOLDER SECURITY AGREEMENT

DATED 1 June ~~MAY~~ 2017

LGP NEWCO LIMITED

and

LEGAL AND GENERAL PROPERTY LIMITED

as Chargors

and

WELLS FARGO BANK, N.A., LONDON BRANCH

relating to  
Arndale Centre, Eastbourne

**ALLEN & OVERY**

Allen & Overy LLP

0083892-0000046 BK:39913132.5

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THIS DEED is dated 1 June May 2017 and is made

**BETWEEN:**

- (1) **LGP NEWCO LIMITED** (registered in England and Wales with registered number 06764451) and **LEGAL AND GENERAL PROPERTY LIMITED** (registered in England and Wales with registered number 02091897) (the **Chargors**); and
- (2) **WELLS FARGO BANK, N.A., LONDON BRANCH** (the **Security Agent**) as security trustee for the Secured Parties (as defined in the Facility Agreement defined below).

**BACKGROUND:**

- (A) Each Chargor enters into this Deed in connection with the Facility Agreement (as defined below).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

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

**Borrower** means Performance Retail (General Partner) Limited (registered in England and Wales with registered number 5481408) and General Partner B (registered in England and Wales with registered number OC415218 as general partners of the limited partnership carrying on business under the name of Performance Retail Limited Partnership (registered in England and Wales as a limited partnership under the Limited Partnerships Act 1907 with registration number LP10573).

**Facility Agreement** means the £58,000,000 Facility Agreement dated on or about the date hereof between (among others) the Borrower and the Security Agent.

**Investments** means:

- (a) the Shares; and
- (b) the Membership Interests.

**Membership Interest** means each Chargor's rights, title and interests in General Partner B (including, without limitation any rights, title and interests arising under the Members' Agreement, the Limited Liability Partnership Act 2000 (or other law or regulation relating to limited liability partnerships) or otherwise), including, without limitation, all of its interest in the capital of, all of its rights to receive the profits of, and all of its rights to receive any distribution of the assets of, General Partner B.

**Members' Agreement** has the meaning given to that term in the Facility Agreement.

**Obligor** means each Obligor as defined in the Facility Agreement.

**Party** means a party to this Deed.

**Receiver** means a receiver or receiver and manager or administrative receiver, in each case appointed under this Deed.

**Related Rights** means:

- (a) any dividend or interest paid or payable in relation to any Shares or Membership Interests; and
- (b) any right, money or property accruing or offered at any time in relation to any Shares or Membership Interests by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

**Relevant Contract** means the fund agreement dated 3 September 2012 (as amended on 23 July 2015 and as further amended on 16 December 2016) between the Managing Agent and the Asset Manager pursuant to which the Managing Agent is appointed to, among other things, collect Tenant Contributions in relation to the Property.

**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 Obligor to any Secured Party under each Finance Document.

**Security Asset** means any asset of each Chargor which is, or is expressed to be, subject to any Security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

**Shareholder Security Consent Date** has the meaning given to that term in the Facility Agreement.

**Shares** means all of the shares in the share capital of Performance Retail (General Partner) Limited.

## **1.2 Construction**

- (a) Capitalised terms defined in the Facility Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) The provisions of clause 1.2 (Construction) of the Facility Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Facility Agreement will be construed as references to this Deed.
- (c) Unless a contrary indication appears, a reference in this Deed to:
  - (i) a Finance Document or Transaction Document or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (ii) any **rights** in respect of an asset includes:
    - (A) all amounts and proceeds paid or payable;
    - (B) all rights to make any demand or claim; and

- (C) all powers, remedies, causes of action, security, guarantees and indemnities,  
in each case in respect of or derived from that asset;
- (iii) any **share, stock, debenture, bond or other security or investment** includes:
  - (A) any dividend, interest or other distribution paid or payable;
  - (B) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,
 in each case in respect of that share, stock, debenture, bond or other security or investment;  
and
- (iv) the term **this Security** means any Security created by this Deed.
- (d) Any covenant of a Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (e) The terms of the other Finance Documents and of any other agreement or instrument between any Parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (f) If the Security Agent considers that an amount paid to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (g) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.

### **1.3 Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

## **2. CONFIRMATION OF AUTHORITY**

### **2.1 Confirmation**

Each Chargor, in each case to the extent its consent is required or desirable under any document (to which it is a party or otherwise) or in any circumstance, irrevocably and unconditionally consents to and approves:

- (a) the creation of the Security (by itself and each other Chargor); and

- (b) the enforcement, on the terms of and in accordance with this Deed, of all or any of the Security (against itself or any other Chargor) by the Security Agent or its nominee or a Receiver by any permitted means including, without limitation, any sale, transfer, assignment, disposal or possession of any Security Asset to any person. This includes, where applicable in respect of a Membership Interest the admission of new members arising out of or in connection with that enforcement, sale, transfer, assignment, disposal or possession. In addition it agrees to use all reasonable endeavours (and to take (and refrain from taking) such steps as are requested by the Security Agent, any Receiver or any transferee) to procure that the Security Agent, any Receiver and any transferee following enforcement benefits from such rights as the relevant Chargor benefited from in relation to General Partner B (in each case to the extent requested by the Security Agent, any Receiver or that transferee).

### **3. CREATION OF SECURITY**

#### **3.1 General**

- (a) All the security created under this Deed:
  - (i) is created in favour of the Security Agent;
  - (ii) is created over present and future assets of each Chargor;
  - (iii) is security for the payment of all the Secured Liabilities; and
  - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) The Security Agent holds the benefit of this Deed and this Security on trust for the Secured Parties.

#### **3.2 Investments**

On and from the Shareholder Security Consent Date, Legal and General Property Limited:

- (a) mortgages by way of a first legal mortgage all Shares owned by it or held by any nominee or trustee on its behalf and all Related Rights (other than Related Rights under the Members' Agreement); and
- (b) (to the extent that they are not the subject of a mortgage under paragraph (a) above) charges by way of a first fixed charge its interest in all its Shares and all Related Rights (other than Related Rights under the Members' Agreement).

#### **3.3 Limited Liability Partnership Interests**

On and from the Shareholder Security Consent Date:

- (a) each Chargor charges by way of a first fixed charge its Membership Interest and its Related Rights and rights and interests under the Members' Agreement;
- (b) other than any assets effectively charged or mortgaged in paragraph (a) above, each Chargor assigns and agrees to assign by way of security all of its present and future rights and benefits (if any) in respect of its Membership Interest and its Related Rights and under the Members' Agreement, including all moneys which at any time may be or become payable to

that Chargor pursuant thereto and the proceeds of any claims, awards and judgments which may at any time be receivable or received by that Chargor pursuant thereto; and

- (c) to the extent that any right, title and interest described in paragraph (b) above is not assignable or capable of assignment, the assignment purported to be effected by paragraph (b) above shall only operate as an assignment of any and all proceeds, damages, compensation, remuneration, profit, rent or income which each Chargor may derive from such right, title or interest or be awarded or entitled to in respect thereof in each case as continuing security for the payment, discharge and performance of its Secured Liabilities.

### **3.4 Subordinated Debt**

Each Chargor:

- (a) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of any Subordinated Debt; and
- (b) charges by way of a first fixed charge all of its rights in respect of any Subordinated Debt except to the extent that it is subject to any fixed security created under any paragraph (ii) above.

### **3.5 Relevant contracts**

- (a) Legal and General Property Limited assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under the Relevant Contract.
- (b) To the extent that they have not been effectively assigned under paragraph (a) above, Legal and General Property Limited charges by way of a first fixed charge all of its rights listed under paragraph (a) above.

## **4. REPRESENTATIONS**

### **4.1 Representations**

Each Chargor, in respect of itself only, makes the representations and warranties set out in this Clause to each Finance Party.

### **4.2 Status**

It is a limited liability company, duly incorporated and validly existing under the laws of the jurisdiction of its incorporation.

### **4.3 Binding obligations**

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

### **4.4 Non-conflict**

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

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or

- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument to an extent that would be reasonably likely to have a Material Adverse Effect.

#### **4.5 Powers and authority**

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

#### **4.6 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (b) to make this Deed admissible in evidence in its jurisdictions of incorporation,

have been (or, in respect of the matters contemplated in Clauses 3.2 (Investments) and 3.3 (Limited Liability Partnership Interests) will, by the Shareholder Security Consent Date be) obtained or effected and are (or will be, by the Shareholder Security Consent Date, as applicable) in full force and effect, except any Authorisation referred to in Clause 4.10 (No filing or stamp taxes) which Authorisations will be promptly obtained or effected after the date of this Deed.

#### **4.7 Nature of security**

Subject to the Legal Reservations, this Deed creates those Security Interests it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

#### **4.8 Shares**

Legal and General Property Limited represents and warrants that:

- (a) the Shares are fully paid;
- (b) the Shares represent the whole of the issued share capital of Performance Retail (General Partner) Limited; and
- (c) it is the sole legal and beneficial owners of the Shares.

#### **4.9 Membership Interests**

- (a) The Membership Interests represent all of the rights, title and interests in General Partner B.
- (b) The Chargors are the sole legal and beneficial owners of the Membership Interests.

#### **4.10 No filing or stamp taxes**

Under the laws of its jurisdiction of original incorporation it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax 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 registrations, filings, taxes and fees will be made and paid promptly after the date of this Deed.

#### **4.11 Times for making representations**

- (a) The representations and warranties set out in this Deed are made on the date of this Deed.
- (b) Each representation or warranty under this Deed is deemed to be repeated by each Chargor on the date of the Utilisation Request, the Utilisation Date and the first day of each Interest Period.
- (c) When a representation or warranty is repeated, it is applied to the circumstances existing at the time of repetition.

### **5. RESTRICTIONS ON DEALINGS**

- (a) No Chargor may:
  - (i) create or allow to subsist any Security (other than this Deed) on any Security Asset; or
  - (ii) subject to paragraph (b) below, sell, transfer, licence, lease or otherwise dispose of any Security Asset.
- (b) A Chargor may sell, transfer or otherwise dispose of a Security Asset provided that the retiring Chargor procures that the transferee concerned:
  - (i) executes a Shareholder's Security Agreement immediately following the transfer of shares to it; and
  - (ii) provides such other documents as the Agent may require to be satisfied that that Shareholder's Security Agreement creates legal, valid and binding enforceable obligations of the transferee and the security purported to be created thereby.

### **6. INVESTMENTS**

#### **6.1 Deposit**

Each Chargor must immediately:

- (a) deposit with the Security Agent, or as the Security Agent may direct, all certificates and other documents of title or evidence of ownership in relation to its Investments; and
- (b) execute and deliver to the Security Agent all share transfers and other documents which may be requested by the Security Agent in order to enable the Security Agent or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.

#### **6.2 Changes to rights**

No Chargor may take or allow the taking of any action on its behalf which may result in the rights attaching to any Security Asset being altered or further shares in Performance Retail (General Partnership) Limited being issued or Membership Interests in General Partner B being issued or coming into existence.

#### **6.3 Calls**

- (a) Each Chargor must pay all calls or other payments due and payable in respect of any Security Assets.

- (b) If a Chargor fails to do so, the Security Agent may pay the calls or other payments in respect of any of its Security Assets on behalf of that Chargor. That Chargor must immediately on request reimburse the Security Agent for any payment made by the Security Agent under this Clause 6.3 (Calls).

#### **6.4 Other obligations in respect of Security Assets**

- (a) Each Chargor must promptly send a copy to the Security Agent of, and comply with all requests for, information which are within its knowledge and which are made under any law or regulation or any similar provision contained in any articles of association or other constitutional document, or by any listing or other authority, relating to any Security Asset. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of that Chargor.
- (b) Each Chargor must comply with all other conditions and obligations assumed by it in respect of any Security Asset.
- (c) The Security Agent is not obliged to:
  - (i) perform any obligation of any Chargor;
  - (ii) make any payment;
  - (iii) make any enquiry as to the nature or sufficiency of any payment received by it or any Chargor; or
  - (iv) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,in respect of any Security Asset.

#### **6.5 Voting rights**

- (a) Before this Security becomes enforceable the voting rights, powers and other rights in respect of the Security Assets will be exercised:
  - (i) by the relevant Chargor; or
  - (ii) if exercisable by the Security Agent, in any manner which the relevant Chargor may direct the Security Agent in writing; and
- (b) Each Chargor must indemnify the Security Agent against any loss or liability incurred by the Security Agent as a consequence of the Security Agent acting in respect of any of any Security Asset as permitted by this Deed on the direction of that Chargor.
- (c) After this Security has become enforceable, the Security Agent may exercise (in the name of the relevant Chargor and without any further consent or authority on the part of the relevant Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Security Asset, any person who is the holder of any Security Asset or otherwise.
- (d) Each Chargor must, on the date that it provides any Subordinated Debt:
  - (i) immediately serve a notice of assignment or charge (as applicable), substantially in the form of Part 1 of Schedule 1 (Forms of Letter for Subordinated Debt), on the relevant Subordinated Debtor; and

- (ii) use reasonable endeavours to ensure that each such party acknowledges that notice, substantially in the form of Part 2 of Schedule 1 (Forms of Letter for Subordinated Debt).

## **7. Relevant Contracts**

- (a) Legal and General Property Limited must on the date of this Deed:

- (i) serve a notice of assignment substantially in a form to be agreed with the Security Agent, on the Managing Agent; and
- (ii) use reasonable endeavours to ensure that the Managing Agent acknowledges that notice, substantially in a form to be agreed with the Security Agent.

## **8. WHEN SECURITY BECOMES ENFORCEABLE**

### **8.1 Event of Default**

This Security will become immediately enforceable if an Event of Default occurs and is continuing.

### **8.2 Discretion**

After this Security has become enforceable, the Security Agent may enforce all or any part of this Security in any manner it sees fit or as instructed in accordance with the Facility Agreement.

### **8.3 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

## **9. ENFORCEMENT OF SECURITY**

### **9.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security.
- (c) The statutory powers of leasing conferred on the Security Agent are extended so as to authorise the Security Agent to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent may think fit and without the need to comply with any provision of section 99 or section 100 of the Act.

### **9.2 No liability as mortgagee in possession**

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### **9.3 Privileges**

The Security Agent and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that section 103 of the Act does not apply.

#### **9.4 Protection of third parties**

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his/her agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

#### **9.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Security Agent may:
  - (i) redeem any prior Security against any Security Asset; and/or
  - (ii) procure the transfer of that Security to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on each Chargor.
- (b) Each Chargor must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

#### **9.6 Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Agent (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

#### **9.7 Financial collateral**

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of a Chargor under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Security Agent will have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) Where any financial collateral is appropriated:
  - (i) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
  - (ii) in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it,

and each Finance Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

## **10. RECEIVER**

### **10.1 Appointment of Receiver**

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
  - (i) this Security has become enforceable; or
  - (ii) any Chargor so requests to the Security Agent at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

### **10.2 Removal**

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) 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.

### **10.3 Remuneration**

The Security Agent may fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the Act will not apply.

### **10.4 Agent of the Chargors**

- (a) A Receiver will be deemed to be the agent of each Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargors alone are responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (b) No Secured Party will incur any liability (either to a Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **10.5 Relationship with Security Agent**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be

exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## **11. POWERS OF RECEIVER**

### **11.1 General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred on it by any law. This includes:
  - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
  - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### **11.2 Possession**

A Receiver may take immediate possession of, get in and realise any Security Asset.

### **11.3 Carry on business**

A Receiver may carry on any business of a Chargor (but only to the extent that it directly relates to the Security Assets) in any manner he/she thinks fit.

### **11.4 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he/she thinks fit.

### **11.5 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he/she thinks fit.
- (b) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he/she thinks fit.

### **11.6 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of any Chargor or relating directly to any Security Asset.

### **11.7 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he/she thinks fit.

### **11.8 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

### **11.9 Delegation**

A Receiver may delegate his/her powers in accordance with this Deed.

### **11.10 Lending**

A Receiver may lend money or advance credit to any person.

### **11.11 Protection of assets**

A Receiver may effect any insurance and do any other act which a Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset as he/she thinks fit.

### **11.12 Other powers**

A Receiver may:

- (a) do all other acts and things which he/she may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he/she would be capable of exercising if he/she were the absolute beneficial owner of that Security Asset; and
- (c) use the name of any Chargor for any of the above purposes.

## **12. APPLICATION OF PROCEEDS**

All amounts from time to time received or recovered by the Security Agent or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or part of this Security will be held by the Security Agent and applied in accordance with the Facility Agreement. This Clause 12:

- (a) is subject to the payment of any claims having priority over this Security; and
- (b) does not prejudice the right of any Secured Party to recover any shortfall from the relevant Chargor.

## **13. EXPENSES AND INDEMNITY**

Each Chargor must, subject Clause 18.1(b) to a cap equal to the value of the proceeds of the sale of the Security Assets:

- (a) immediately on demand pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation; and
- (b) keep each Secured Party indemnified against any failure or delay in paying those costs or expenses.

## **14. DELEGATION**

### **14.1 Power of Attorney**

The Security Agent or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Deed.

### **14.2 Terms**

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.

### **14.3 Liability**

Neither the Security Agent nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

## **15. FURTHER ASSURANCES**

(a) Each Chargor must promptly, at its own expense, take whatever action the Security Agent or a Receiver may reasonably require for:

- (i) creating, perfecting or protecting any security over any Security Asset; or
- (ii) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

(b) The action that may be required under paragraph (a) above includes:

- (i) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset, whether to the Security Agent or to its nominees; or
- (ii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may consider necessary or desirable (acting reasonably).

## **16. POWER OF ATTORNEY**

(a) Each Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of that Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of that Chargor under or pursuant to this Deed or generally for enabling the Security Agent or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 16.

(b) The appointment detailed in paragraph (a) above shall take effect immediately, but the powers conferred thereby shall be exercisable only upon the occurrence of an Event of Default which is continuing.

## **17. PRESERVATION OF SECURITY**

### **17.1 Continuing security**

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

### **17.2 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, the liability of the Chargors under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **17.3 Waiver of defences**

The obligations of each Chargor under 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 including (without limitation and whether or not known to it or any Finance Party):

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor;
- (c) 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, any Obligor or any other person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (f) any amendment 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;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document or security; or
- (h) any insolvency or similar proceedings.

### **17.4 Immediate recourse**

- (a) Each Chargor waives any right it may have of first requiring any Finance 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 that Chargor under this Deed.
- (b) This waiver applies irrespective of any law or provision of a Finance Document to the contrary.

### **17.5 Appropriations**

Each Finance Party (or any trustee or agent on its behalf) may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) against the Secured Liabilities or apply and enforce them in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor will be entitled to the benefit of such moneys, security or rights; and
- (b) hold in an interest bearing suspense account any moneys received from a Chargor or on account of the liability of that Chargor under this Deed.

### **17.6 Deferral of Chargors' rights**

Unless the Security Period has expired or the Facility Agent otherwise directs, no Chargor may exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under this Clause:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which that Chargor has given a guarantee, undertaking or indemnity under this Clause;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

If a Chargor receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and must promptly pay or transfer them to the Facility Agent or as the Facility Agent may direct for application in accordance with clause 32 (Payment mechanics) of the Facility Agreement.

### **17.7 Additional security**

This Security is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

## **18. CHANGES TO THE PARTIES**

### **18.1 The Chargors**

No Chargor may assign or transfer any of its rights or obligations under this Deed without the prior consent of the Security Agent.

### **18.2 The Finance Parties**

- (a) Any Finance Party may assign or otherwise dispose of all or any of its rights under this Deed in accordance with the Finance Documents to which it is a party.

References to the Security Agent in this Deed include any successor Security Agent appointed under the Facility Agreement.

## **19. MISCELLANEOUS**

### **19.1 Continuing Security and limited recourse**

- (a) This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.
- (b) The recourse of the Finance Parties to the Chargors for the discharge of the Secured Liabilities is limited to the proceeds of sale of the Security Assets.

### **19.2 Tacking**

Each Lender must perform its obligations under the Facility Agreement (including any obligation to make available further advances).

### **19.3 New Accounts**

- (a) If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with a Chargor.
- (b) If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

### **19.4 Time deposits**

Without prejudice to any right of set-off any Secured Party may have under any other Finance Document or otherwise, if any time deposit matures on any account a Chargor has with any Secured Party within the Security Period when:

- (a) this Security has become enforceable; and
- (b) no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which that Secured Party considers appropriate.

## **19.5 Notice to Chargor**

This Deed constitutes notice in writing to each Chargor of any charge or assignment of a debt owed by that Chargor to any Transaction Obligor and contained in any other Security Document.

## **20. RELEASE**

At the end of the Security Period, the Finance Parties must, at the request and cost of each Chargor, take whatever action is necessary to release its Security Assets from this Security.

## **21. NOTICES**

### **21.1 Communications in writing**

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

### **21.2 Addresses**

- (a) The contact details of each Chargor for any communication to be made or delivered under or in connection with this Deed are the same as those set out in the Facility Agreement for the Borrower.
- (b) The contact details of the Security Agent for any communication to be made or delivered under or in connection with this Deed are the same as those set out in the Facility Agreement for the Security Agent.
- (c) Any Party may change its contact details by giving five Business Days' notice to the Security Agent or (in the case of the Security Agent) to the other Party.

### **21.3 Delivery**

- (a) Except as provided below, any communication made or delivered by one person to another under or in connection with this Deed will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) 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 this Deed, if addressed to that department or officer.
- (b) Any communication to be made or delivered to the Security Agent will only be effective when actually received by the Security Agent.
- (c) Any communication which would otherwise become effective on a non-working day or after business hours in the place of receipt will be deemed only to become effective on the next working day in that place.

### **21.4 Electronic communication**

- (a) Any communication to be made between the Parties under or in connection with this Deed may be made by electronic mail or other electronic means, if the relevant Parties:

- (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
  - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (iii) notify each other of any change to their electronic mail address or any other such information supplied by them.
- (b) For the purposes of this Deed, an electronic communication will be treated as being in writing.
  - (c) Any electronic communication made between the Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent may specify for this purpose.
  - (d) Any electronic communication which would otherwise become effective on a non-working day or after business hours in the place of receipt will be deemed only to become effective on the next working day in that place.

#### **21.5 English language**

- (a) Any communications made under or in connection with this Deed must be in English.
- (b) All other documents provided under or in connection with this Deed must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

#### **22. PARTIAL INVALIDITY**

If, at any time, any term of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction that will not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of this Deed; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of this Deed.

#### **23. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under this Deed will operate as a waiver, nor will any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically:

#### **24. COUNTERPARTS**

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

## **25. GOVERNING LAW**

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

## **26. ENFORCEMENT**

### **26.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause is for the benefit of the Finance Parties only. As a result, to the extent allowed by law:
  - (i) no Finance Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction; and
  - (ii) the Finance Parties may take concurrent proceedings in any number of jurisdictions.

**THIS DEED** has been executed and delivered as a deed on the date stated at the beginning of this Deed.

**SCHEDULE 1**  
**FORMS OF LETTER FOR SUBORDINATED DEBT**

**PART 1**

**NOTICE TO COUNTERPARTY**

To: [Contract Counterparty]

Copy: Wells Fargo, N.A., London Branch (as Security Agent as defined below)

[Date]

Dear Sirs,

**Security Agreement dated [●] in respect of the Performance Retail Limited Partnership  
in favour of Wells Fargo, N.A., London Branch (the Security Agreement)**

This letter constitutes notice to you that under the Security Agreement we [CHARGOR] have [assigned absolutely, subject to a proviso for re-assignment on redemption,]/[charged by way of a first fixed charge]<sup>1</sup> to Security Agent (as trustee for the Secured Parties as referred to in the Security Agreement, the **Security Agent**) all our rights in respect of [insert details of contract] (the **Contract**).

We confirm that:

- (a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
- (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will also remain entitled to exercise all our rights, powers and discretions under the Contract, and you should continue to give notices and make payments under the Contract to us, unless and until you receive notice from the Security Agent to the contrary stating that the security under the Security Agreement has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Security Agent or as it directs.

We irrevocably instruct and authorise you to disclose to the Security Agent any information relating to the Contract requested from you by the Security Agent.

The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.

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

Please acknowledge receipt of this letter by sending the attached acknowledgement to the Security Agent at [address] with a copy to us.

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<sup>1</sup> Delete as applicable.

Yours faithfully,

.....  
(Authorised signatory)  
[Chargor]

## PART 2

### ACKNOWLEDGEMENT OF COUNTERPARTY

To: Wells Fargo, N.A., London Branch (as Security Agent)

Copy: [Chargor]

[Date]

Dear Sirs,

**Security Agreement dated [●] 2017 in respect of the Performance Retail Limited Partnership  
in favour of Wells Fargo, N.A., London Branch (the Security Agreement)**

We confirm receipt from [Chargor] (the **Chargor**) of a notice dated [●] (the **Notice**) of [an assignment]/[fixed charge]<sup>2</sup> on the terms of the Security Agreement of all the Chargor's rights in respect of [insert details of the contract] (the **Contract**).

We confirm that we:

- (c) accept the instructions contained in the Notice and agree to comply with the Notice; and
- (d) will give notices and make payments under the Contract as directed in the Notice.

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

Yours faithfully,

.....  
(Authorised signatory)  
[Contract counterparty]

---

<sup>2</sup> Delete as applicable.

**SIGNATORIES**

**Chargors**

**EXECUTED AS A DEED by** )  
**LEGAL AND GENERAL PROPERTY LIMITED** )  
acting by *Andrew Banks* )



Director

In the presence of:

Witness's signature:



Name: *Charlie Bartlet*

Address: *One Coleman Street, London, EC2R 5AA*

**LGP NEWCO LIMITED**

acting by *Nigel Fuller*

Director



In the presence of:

Witness's signature:



Name: *Charlie Bartlet*

Address: *One Coleman Street, London, EC2R 5AA*

Security Agent

WELLS FARGO BANK, N.A., LONDON  
BRANCH

By:

