

MR01

Particulars of a charge



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

You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

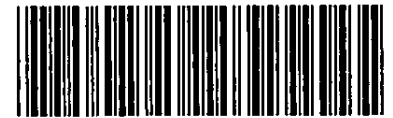
☒ What this form is for
You may use this form to register
a charge created or evidenced by
an instrument

☒ What this form is NOT for
You may not use this form to
register a charge where there
instrument Use form MR08

For further information...

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

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



R41USXXV
RCS 23/02/2015 #19
COMPANIES HOUSE
A415SH14
A29 13/02/2015 #192
COMPANIES HOUSE

1 Company details

Company number 0 5 4 8 1 4 0 8 ✓
Company name in full Performance Retail (General Partner) Limited (acting in its own
capacity and as general partner of the Performance Retail
Limited Partnership

For official use
→ Filing in this form
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d1 d0 m0 m2 y2 y0 y1 y5 ✓

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

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

Name Wells Fargo Bank N.A., London Branch

Name

Name

Name

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

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

MR01

Particulars of a charge

4

Brief description

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

Brief description

Leasehold land known as Multi-Storey Car Park at Junction Road, Eastbourne registered at H M Land Registry with title absolute under title number ESX41430, and
Freehold land known as 152-156 Terminus Road, Eastbourne registered at H M Land Registry with title absolute under title number ESX218883.

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

Please limit the description to the available space

5

Other charge or fixed security

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

☒ Yes

☐ No

6

Floating charge

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

☐ Yes Continue

☒ No Go to Section 7

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

☐ Yes

7

Negative Pledge

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

☒ Yes

☐ No

8

Trustee statement ¹

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

☐

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

9

Signature

Please sign the form here

Signature

Signature

X *Allen & Overy LLP* X

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

MR01

Particulars of a charge



Presenter information

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

Contact name LOUISE TURNBULL

Company name ALLEN & OVERY LLP

Address ONE BISHOPS SQUARE

Post town LONDON

County/Region

Postcode E 1 6 A D

Country ENGLAND

DX 73 LONDON/CITY

Telephone 020 3088 0000



Certificate

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



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following.

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



Important information

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



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

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



Where to send

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

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

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

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



Further information

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

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

PROFORMA

Company Number **05481408**

Company Name **Performance Retail (General Partner) Limited**

Contact Name/ Organisation: **Louise Turnbull/Allen & Overy LLP**

Address: **One Bishops Square, London E16AD**

The following details will need to be added to, amended or deleted from the Form MR01/LLMR01/MR08/LLMR08

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- ☐ Company/LLP name
- ☐ Date of creation of charge
- ☐ Persons entitled to the charge
- ☒ Description of property
- ☐ Fixed charge tick box (applies only to MR01/LLMR01)
- ☐ Floating charge tick box (applies only to MR01/LLMR01)
- ☐ Negative pledge tick box (applies only to MR01/LLMR01)
- ☐ Nature of the charge
(applies only to MR08/LL MR08)
- ☐ Obligations secured by the charge
(applies only to MR08/LL MR08)

- **The following details will need to be added to, amended or deleted from the Form MR02/LLMR02/MR09/LLMR09**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- ☐ Company/LLP name
- ☐ Date of creation of charge
- ☐ Date that property or undertaking was acquired

- ☐ Persons entitled to the charge
- ☐ Description of property.
- ☐ Fixed charge tick box (applies only to MR02/LLMR02)
- ☐ Floating charge tick box (applies only to MR02/LLMR02)
- ☐ Negative pledge tick box (applies only to MR02/LLMR02)
- ☐ Nature of the charge
(applies only to MR09/LL MR09)
- ☐ Obligations secured by the charge
(applies only to MR09/LL MR09)

- **The following details will need to be added to, amended or deleted from the Form MR03/MR10/LLMR03/LLMR10**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

- ☐ Company /LLP number
- ☐ Company/LLP name
- ☐ Date of creation of charge
- ☐ Date of resolution or determination
- ☐ Date of covering instrument
- ☐ Names of trustees for debenture holders
- ☐ Description of property.
- ☐ Fixed charge tick box (applies only to MR03/LLMR03)
- ☐ Floating charge tick box (applies only to MR03/LLMR03)
- ☐ Negative pledge tick box (applies only to MR03/LLMR03)
- ☐ Nature of the charge
(applies only to MR10/LL MR10)
- ☐ Obligations secured by the charge
(applies only to MR10/LL MR10)

Please give the instructions in the box below)

Please delete:

“Leasehold land known as Multi-Storey Car Park at Junction Road, Eastbourne registered at H.M. Land Registry with title absolute under title number ESX41430; and

Freehold land known as 152-156 Terminus Road, Eastbourne registered at H.M Land Registry with title absolute under title number ESX218883”

from Section 4 of the form MR01



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5481408

Charge code: 0548 1408 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th February 2015 and created by PERFORMANCE RETAIL (GENERAL PARTNER) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd February 2015

DX

Given at Companies House, Cardiff on 23rd February 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

EXECUTION VERSION

*Except for material redacted pursuant to
s859G of the Companies Act 2006 I certify
that this is a correct copy of the original
document*
Allen & Overy LLP
ONE BISHOPS SQUARE
LONDON E1 6AD
11.02.15

SECURITY AGREEMENT

10 FEBRUARY 2015

Between

PERFORMANCE RETAIL LIMITED PARTNERSHIP

PERFORMANCE RETAIL (GENERAL PARTNER) LIMITED

and

PERFORMANCE RETAIL (NOMINEE) LIMITED
as Chargors

and

**WELLS FARGO BANK N.A., LONDON BRANCH (AS ASSIGNEE OF HYPOTHEKENBANK
FRANKFURT, LONDON BRANCH - FORMERLY EUROHYPO AG, LONDON BRANCH)**

as Agent

relating to the Arndale Centre, Eastbourne

ALLEN & OVERY

Allen & Overy LLP

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CONTENTS

Clause		Page
1	Interpretation	4
2	Creation of Security	5
3	Fixed Security	5
4	Confirmation	5
5	Relevant Contracts	6
6	Incorporation	6
7	Continuation	6
8	Governing Law	6
Schedule		
1	Form of Letter for Relevant Contracts	7
	Signatories to the Security Agreement	9

THIS DEED is dated 10 February 2015 **BETWEEN**

- (1) **PERFORMANCE RETAIL (GENERAL PARTNER) LIMITED** (registered in England and Wales with registered number 5481408 as general partner of the limited partnership carrying on business under the name of the **PERFORMANCE RETAIL LIMITED PARTNERSHIP** (registered in England and Wales as a limited partnership under the Limited Partnership Act 1907 with registered number LP10573)) (the **Borrower**),
- (2) **PERFORMANCE RETAIL (GENERAL PARTNER) LIMITED** (Registered in England and Wales with registered number 5481408) (the **General Partner**),
- (3) **PERFORMANCE RETAIL (NOMINEE) LIMITED** (Registered in England and Wales with registered number 5481303 in their capacity both as principal and as trustee for the Limited Partnership) (the **Nominee**), and
- (4) **WELLS FARGO BANK N.A., LONDON BRANCH (AS ASSIGNEE OF HYPOTHEKENBANK FRANKFURT, LONDON BRANCH - FORMERLY, EUROHYPO AG, LONDON BRANCH)** (the **Agent**) as agent and trustee for the Finance Parties (as defined in the Credit Agreement defined below)

BACKGROUND

- (A) Under a security agreement dated 1 August 2005 (the **Original Security Agreement**) between the Chargors and the Agent, the Chargors charged by way of first legal mortgage, first fixed charge and assignment by way of security certain of its assets as security for, amongst other things, the present and future obligations and liabilities of each Obligor under the Finance Documents (as amended or supplemented)
- (B) By a deed of release dated 30 December 2010 (the **Deed of Release**), the Agent
 - (i) released and discharged the freehold land known as 152-156 Terminus Road, Eastbourne registered at H M Land Registry with title absolute under title number ESX233886 (the **Released Property**) together with any buildings, fittings and fixed plant and machinery on the Released Property (the **Released Property Assets**), from the Security Interests created by the Chargors under the Original Security Agreement, and
 - (ii) reassigned to the Chargors any rights relating to the Released Property assigned to the Agent under clause 2.2 (Assignment) of the Original Security Agreement
- (C) By a letter dated on or around the date of this Deed (the **Consent Letter**), the Finance Parties have, among other things, given their consent to the entry by the Chargors into the CPO Documents to which they are a party (as defined below) Accordingly, the Chargors have agreed to enter into this Deed in connection with the Consent Letter
- (D) This Deed is supplemental to the Original Security Agreement
- (E) 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. INTERPRETATION

1.1 Definitions

In this Deed

CPO Documents means

- (a) the Indemnity Agreement,
- (b) the Option Agreement,
- (c) the Declaration of Trust of Shares, or
- (d) the Declaration of Trust of Arndale Headlease

Declaration of Trust of Arndale Headlease means the declaration of trust by the Arndale Nominee and Arndale Nominee Two in respect of all their rights, title and interest in the Bare Trust Assets (as defined therein) in favour of the Borrower and the Nominee dated on or about the date of this Deed

Declaration of Trust of Shares means the declaration of trust by Crestbridge Corporate Trustees Limited in respect of all its rights, title and interest in the ordinary shares in the Arndale Nominee and Arndale Nominee Two in favour of the Borrower and the Nominee dated on or about the date of this Deed

Indemnity Agreement means the indemnity agreement between Eastbourne Borough Council and the Borrower and the General Partner as developer dated on or about the date of this Deed

Option Agreement means the option agreement between Eastbourne Borough Council and the Borrower and the General Partner as developer dated on or about the date of this Deed

Security Assets means all assets of a Chargor the subject of any security created by this Deed

1.2 Construction

- (a) Capitalised terms defined in the Original Security Agreement have, unless expressly defined in this Deed, the same meaning in this Deed whether defined in the Original Security Agreement, or by reference therein to another document
- (b) The provisions of clause 1.2 (Construction) of the Credit Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Agreement are to be construed as references to this Deed
- (c) If the Agent considers that an amount paid to a Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the person that paid that amount or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed
- (d) Unless the context requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset
- (e) (i) A Finance Document or other agreement or instrument includes (without prejudice to any prohibition or amendments) any amendment to that Finance Document or

other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of facility or any additional facility,

- (ii) The term **this Security** means any security created by this Deed, and
- (iii) A reference to any asset includes present and future properties, revenues and rights of every description
- (f) Any covenant of the Chargors under this Deed (other than a payment obligation) remains in place during the Security Period

2. CREATION OF SECURITY

2.1 General

All the security created under this Deed

- (a) is created in favour of the Agent,
- (b) is created over present and future assets of the Chargors,
- (c) is security for the payment and satisfaction of all the Secured Liabilities, and
- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994

3. FIXED SECURITY

3.1 Creation of fixed security

Each Chargor, charges by way of a first fixed charge

- (a) (to the extent they are not subject to an effective assignment under Clause 3.2 (Assignment)) all its rights under each CPO Document, and
- (b) the benefit of all licences, consents and authorisations (statutory or otherwise) held in connection with the use of any Security Asset specified in any other subparagraph in this Clause and the right to recover and receive all compensation which may be payable to it in respect of them

3.2 Assignment

Each Chargor assigns absolutely to the Agent by way of security, subject to a proviso for re-assignment on redemption, all its rights under each CPO Document

4. CONFIRMATION

Each Chargor confirms that, as security for the payment of the Secured Liabilities

- (a) it has charged in favour of the Agent by way of first fixed charge the assets relating to the property specified in the Schedule and referred to in clause 2.1 (Creation of fixed security) of the Original Security Agreement other than the Released Property and the Released Property Assets, and

- (b) it has assigned to the Agent by way of security the assets relating to the property specified in the Schedule and referred to in clause 2.2 (Assignment) of the Original Security Agreement other than the Released Property

5 RELEVANT CONTRACTS

5.1 General

In this Clause **Relevant Contract** means

- (a) each CPO Document, and
- (b) any other agreement to which the Chargor is a party and which the Agent has designated in writing as a Relevant Contract

5.2 Notices of assignment

The Chargor must, at the request of the Agent

- (a) promptly give a notice of assignment, substantially in the form of Part 1 of Schedule 1 (Forms of Letter for Relevant Contracts), on each counterparty to a Relevant Contract, and
- (b) 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 Relevant Contracts)

6. INCORPORATION

The provisions of clause 4 (Representations and warranties) to clause 17 (Release) (inclusive) of the Original Security Agreement are deemed to be incorporated into this Deed with all necessary modifications as if they were set out in full in this Deed

7. CONTINUATION

- (a) Except insofar as supplemented by this Deed, the Original Security Agreement will remain in full force and effect
- (b) References in the Original Security Agreement to **this Deed** and expressions of similar import are deemed to be references to the Original Security Agreement as amended by this Deed and to this Deed
- (c) This Deed is designated a Finance Document

8. GOVERNING LAW

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

THIS DEED has been entered into as a deed on the date stated at the beginning of this Deed

SCHEDULE 1
FORM OF LETTER FOR RELEVANT CONTRACTS

PART 1

NOTICE TO COUNTERPARTY

[On the letterhead of the Chargor]

To [Contract party]

[Date]

Dear Sirs,

Security Agreement dated [] 2015 between [Chargor] and Wells Fargo Bank N.A., London Branch (the Security Agreement)

This letter constitutes notice to you that under the Security Agreement we have assigned by way of security to Wells Fargo Bank N A , London Branch (as agent and trustee for the Finance Parties as referred to in the Security Agreement, the **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 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 under the Contract to us, unless and until you receive notice from the Agent to the contrary stating that the security has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given to, the Agent or as it directs

Please note that we have agreed that we will not amend or waive any provision of or terminate the Contract without the prior consent of the 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 Agent at [ADDRESS] with a copy to ourselves

Yours faithfully,

(Authorised signatory)
[CHARGOR]

PART 2

ACKNOWLEDGEMENT OF COUNTERPARTY

To Wells Fargo Bank N A , London Branch

Copy [Chargor]

[Date]

Dear Sirs,

Security Agreement dated [] 2015 between [Chargor] and Wells Fargo Bank N.A., London Branch (the Security Agreement)

We confirm receipt from [the Chargor] (the **Chargor**) of a notice dated [] 2015 (the Notice) of an assignment 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 will pay all sums due, and give notices, 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)
[Counterparty]

SIGNATORIES TO THE SECURITY AGREEMENT

Chargors

EXECUTED as a DEED by)
PERFORMANCE RETAIL (GENERAL PARTNER))
LIMITED as general partner of the PERFORMANCE)
RETAIL LIMITED PARTNERSHIP)
acting by)

[REDACTED]

Director

[REDACTED]

Director/Secretary

EXECUTED as a DEED by)
PERFORMANCE RETAIL (GENERAL PARTNER))
LIMITED)
acting by)

[REDACTED]

Director

[REDACTED]

Director/Secretary

EXECUTED as a DEED by)
PERFORMANCE RETAIL (NOMINEE) LIMITED)
acting by)

[REDACTED]

Director

[REDACTED]

Director/Secretary

Agent

**WELLS FARGO BANK N.A., LONDON BRANCH (AS ASSIGNEE OF HYPOTHEKENBANK
FRANKFURT, LONDON BRANCH - FORMERLY EUROHYPO AG, LONDON BRANCH)**

By

A large black rectangular redaction box covering the signature of the agent.