



Registration of a Charge

Company name: **BOLLINWAY PROPERTIES LIMITED**

Company number: **10611357**



X7KT6HEG

Received for Electronic Filing: **14/12/2018**

Details of Charge

Date of creation: **11/12/2018**

Charge code: **1061 1357 0002**

Persons entitled: **TOYS "R" US PROPERTIES (UK) LIMITED**

Brief description: **ALL AND WHOLE THE TENANT'S INTEREST IN THE LEASE BETWEEN GAZELEY PROPERTIES LIMITED AND TOYS "R" US LIMITED DATED 30 JUNE AND 11 JULY BOTH DATES IN 1997 AND REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER GLA 128095 AND RELATING TO SUBJECTS KNOWN AS AND FORMING 480 HELEN STREET, GLASGOW.**

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:

EDWIN TRUESDALE



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10611357

Charge code: 1061 1357 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th December 2018 and created by BOLLINWAY PROPERTIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th December 2018 .

Given at Companies House, Cardiff on 17th December 2018

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



DLA PIPER

**WE HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL**

DATE 14/12/18

SIGNED *[Signature]*

DLA PIPER UK LLP

DLA PIPER SCOTLAND LLP

FAS ERT

STANDARD SECURITY

by

BOLLINWAY PROPERTIES LIMITED

in favour of

TOYS "R" US PROPERTIES (UK) LIMITED

as Lender

Subjects: relating to 480 Helen Street, Glasgow

DLA Piper Scotland LLP
Collins House
Rutland Square
Edinburgh
EH1 2AA
Tel: +44 (0) 8700 111 111
Fax: +44 (0) 131 242 5555

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CONTENTS

| | | |
|-----|---|---|
| 1. | INTERPRETATION..... | 1 |
| 2. | CREATION OF SECURITY..... | 2 |
| 3. | REPRESENTATIONS AND WARRANTIES - GENERAL..... | 2 |
| 4. | RESTRICTIONS ON DEALING..... | 3 |
| 5. | LAND..... | 3 |
| 6. | WHEN SECURITY BECOMES ENFORCEABLE..... | 3 |
| 7. | ENFORCEMENT OF SECURITY..... | 4 |
| 8. | APPLICATION OF PROCEEDS..... | 5 |
| 9. | EXPENSES AND INDEMNITY..... | 5 |
| 10. | DELEGATION..... | 6 |
| 11. | FURTHER ASSURANCES..... | 6 |
| 12. | POWER OF ATTORNEY..... | 6 |
| 13. | MISCELLANEOUS..... | 7 |
| 14. | PRESERVATION OF SECURITY..... | 7 |
| 15. | RELEASE..... | 8 |
| 16. | WARRANTICE..... | 8 |
| 17. | CONSENT TO REGISTRATION..... | 8 |
| 18. | CONTRACT (THIRD PARTY RIGHTS) (SCOTLAND) ACT..... | 8 |
| 19. | GOVERNING LAW AND JURISDICTION..... | 8 |

WE, **BOLLINWAY PROPERTIES LIMITED**, incorporated under the Companies Acts (registered number 10611357) and having our Registered Office at Canal Mill, Botany Brow, Chorley, Lancashire PR6 9AF ("Chargor") **CONSIDERING** that:

- A by a standard security dated 27 March 2013 the Lender (as the registered proprietor of the Security Subjects (as defined below)) charged the Security Subjects in favour of U.S. Bank Trustees Limited (company number 2379632) whose registered office is 125 Old Broad Street, London, EC2N 1AR ("Security Agent"); and
- B the Lender with the consent of the Security Agent (acting by Solutus Advisors Limited (as its duly appointed attorney)) has agreed to sell and the Chargor has agreed to purchase the Security Subjects ("Sale"). Pursuant to the terms of the Sale, the Chargor has agreed to pay to the Lender part of the sale consideration due on a deferred basis. The Chargor has agreed to secure its obligations to pay such deferred consideration to the Lender in accordance with the terms of this Deed and hereby **AGREES, DECLARES and GRANTS** as follows:

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:

"Chargor Security" means any Security created pursuant to this Deed;

"Lender" means **TOYS "R" US PROPERTIES (UK) LIMITED** a limited company incorporated in England and Wales with registered number 5410177 whose registered office is at Canal Mill, Botany Brow, Chorley, Lancashire PR6 9AF;

"Option Agreement" means the option agreement dated 12 August 2018 and made between the (1) Chargor (2) the Lender and (3) Neil Joseph Forkin for the sale of (inter alia) the Security Subjects and all other documents executed by the Chargor in connection with the same;

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Chargor to the Lender under or pursuant to the Option Agreement (including all monies covenanted to be paid under this Deed);

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and

"Security Subjects" means All and Whole the tenant's interest in the lease between Gazeley Properties Limited and Toys "R" Us Limited dated 30 June and 11 July both dates in 1997 and registered in the Land Register of Scotland under Title Number GLA128095 and relating to subjects known as and forming 480 Helen Street, Glasgow.

1.2 **Construction**

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

- (i) the "Chargor", the "Lender" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- (ii) "this Deed" and the "Option Agreement" shall be construed as reference to this Deed, the Sale Agreement or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of the Chargor or provides for further advances);
- (iii) "Secured Liabilities" includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Chargor;
- (iv) "includes" means includes or including without limitation.
- (b) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed:
 - (i) must be complied with at all times throughout the Security Period; and
 - (ii) is given by the Chargor for the benefit of the Lender.
- (c) If the Lender reasonably considers that an amount paid by the Chargor to it under this Deed or the Option Agreement is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (d) Any obligation of or undertaking by the Chargor under this Deed (other than a payment obligation) remains in force during the Security Period.

2. CREATION OF SECURITY

2.1 General

All the Chargor Security created under this Deed is:

- (a) created in favour of the Lender; and
- (b) continuing for the payment and satisfaction of all the Secured Liabilities; and
- (c) granted with absolute warrandice.

2.2 Land

The Chargor as security for the payment and satisfaction of all the Secured Liabilities hereby grants a Standard Security in favour of the Lender over the Security Subjects.

3. REPRESENTATIONS AND WARRANTIES - GENERAL

3.1 Nature of security

The Chargor represents and warrants to Lender that this Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

3.2 Times for making representations and warranties

- (a) The representations and warranties set out in this Deed (including in this clause) are made on the date of this Deed.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

4. RESTRICTIONS ON DEALING

4.1 Security

The Chargor must not create or permit to subsist any Security on the Security Subjects (except for this Chargor Security) or agree to do any of the foregoing.

4.2 Disposals

The Chargor must not sell, transfer, licence, lease or otherwise dispose of the Security Subjects or any part thereof or permit the same to occur or agree to any of the foregoing.

5. LAND

5.1 Deposit of title deeds

The Chargor must deposit with the Lender all deeds and documents of title relating to the Security Subjects.

5.2 Power to remedy

If the Chargor fails to perform any term affecting the Security Subjects, the Chargor must allow the Lender or its agents and contractors:

- (a) to enter any part of the Security Subjects;
- (b) to comply with or object to any notice served on the Chargor in respect of the Security Subjects; and
- (c) to take any action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

The Chargor must immediately on request by the Lender pay the costs and expenses of the Lender or its agents and contractors incurred in connection with any action taken by it under this Subclause.

6. WHEN SECURITY BECOMES ENFORCEABLE

6.1 Event of Default

This Chargor Security will become immediately enforceable and the Chargor shall be held to be in default within the meaning of standard condition 9(1)(b) of standard conditions specified in schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970.

6.2 Discretion

After this Chargor Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of this Chargor Security in any manner it sees fit.

7. ENFORCEMENT OF SECURITY

7.1 General

The standard conditions specified in schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and any lawful variation thereof operative for the time being shall apply and the Chargor agrees that the said standard conditions shall be varied to the effect that:

- (a) it shall be an obligation on the Chargor to insure the Security Subjects in the name of the Chargor (and, unless otherwise agreed by the Lender, in the name of the Lender for their respective rights and interests) to the extent of the reinstatement value thereof or to any other extent approved by the Lender against the risk of fire and such other risks as the Lender may reasonably require in an insurance office chosen by the Chargor and approved by the Lender, such approval not to be unreasonably withheld. In the event of the Chargor failing so to insure the Security Subjects, the Lender shall be entitled but not bound to effect such insurance and to recover the costs thereof from the Chargor;
- (b) the Chargor shall not without the consent in writing of the Lender at any time while this Standard Security continues in force:
 - (i) make any alteration in the use of the Security Subjects
 - (ii) where at the date of this Standard Security or at any time subsequently the Chargor is in occupation of the Security Subjects, part with occupation of them or any part of them or grant any servitude, wayleave, real burden or water or drainage rights or other continuing rights upon or affecting the Security Subjects or any part thereof or
 - (iii) apply under any statute for the time being in force for an improvement grant or other grant or payment in respect of the Security Subjects;
- (c) if the Security Subjects or any part thereof shall be compulsorily purchased or requisitioned or be the subject of a notice to treat for the purposes of compulsory acquisition all claims and rights competent or that may become competent to the Chargor to compensation by reason of such acquisition shall be held to be assigned to the Lender, with full power to the Lender to negotiate, agree and adjust the amount of any such compensation;
- (d) the security created by this Standard Security shall be a security to the Lender for any balance which may remain due to them after applying any payments received by them from any person (including any trustee in sequestration, receiver, liquidator, administrator, trustee under any trust deed for creditors or trustee or nominee under, or supervisor of, a voluntary arrangement) in respect of any obligation or indebtedness secured by this Standard Security and the Chargor shall not be entitled to require from the Lender any assignment of any such obligation or indebtedness or any part thereof or to rank in any sequestration, receivership or liquidation or under any trust deed or voluntary arrangement in respect of any payment made by the

Chargor to the Lender or to have the benefit of any securities held by the Lender until the whole amount secured by this Standard Security has been paid or settled in full;

- (e) the Lender may assign this Standard Security to any other person; and
- (f) in the event of the Lender exercising any of the remedies competent to them in terms of standard condition 10 of said Schedule 3 to the said last-mentioned Act and of the Chargor failing to remove from the Security Subjects any furniture, furnishings, equipment, utensils, motor vehicles, farm implements, live or dead stock, or other moveable effects, whether of a personal, domestic, or business nature, after being called upon by the Lender by notice in writing to remove the same within such period as may be specified in the said notice, the Lender shall be entitled and are hereby irrevocably authorised as agents of the Chargor to remove, sell, store or otherwise deal with or dispose of such furniture, furnishings, equipment, utensils, motor vehicles, farm implements, live or dead stock, or other moveable effects in such manner and upon such terms as the Lender may in their sole discretion think fit, subject only to an obligation to account to the Chargor for any price received by the Lender for any of the same. The Lender shall not be liable for any loss or damage occasioned to the Chargor by the exercise of the authority hereby conferred on the Lender and the Chargor shall be bound to indemnify the Lender against all expenses incurred by them in connection with or incidental to the removal, sale, storage or other dealing with or disposal of any such furniture, furnishings, equipment, utensils, motor vehicles, farm implements, live or dead stock, or other moveable effects and against all claims by or liability to any third party asserting ownership of any item thereof.

8. APPLICATION OF PROCEEDS

Any moneys received, realised or recovered by or on behalf of the Lender after this Chargor Security has become enforceable must be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs and expenses incurred by the Lender under or in connection with this Deed;
- (b) to the extent not paid or provided for under clause 8(a) in or towards payment of or provision for the Secured Liabilities; and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.

This clause is subject to the payment of any claims having priority over this Chargor Security. This clause does not prejudice the right of the Lender to recover any shortfall from the Chargor.

9. EXPENSES AND INDEMNITY

The Chargor must:

- (a) immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Deed by the Lender, attorney, manager, agent or other person appointed by the Lender under this Deed including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and

- (b) keep each of them indemnified against any failure or delay in paying those costs or expenses.

10. DELEGATION

10.1 Power of Attorney

The Lender may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

10.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Lender may think fit.

10.3 Liability

The Lender will not be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

11. FURTHER ASSURANCES

The Chargor must, at its own expense, promptly take whatever action the Lender may require for:

- (a) creating, perfecting or protecting any Chargor Security created or intended to be created by this Deed; or
- (b) facilitating the realisation of the Security Subjects, or the exercise of any right, power or discretion exercisable, by the Lender or any of its delegates or sub-delegates in respect of the Security Subjects.

This includes (but is not limited to):

- (i) the execution of any transfer, conveyance, assignment, assignation or assurance of any property, whether to the Lender or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration or filing,

which, in any such case, the Lender may think expedient.

12. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Lender and any of its delegates or sub-delegates to be its attorney and in its name and on its behalf to:

- (a) take any action which the Chargor is obliged to take under this Deed or
- (b) exercise any of the rights conferred on any of the attorneys by this Deed or by law.

The Chargor shall ratify and confirm and agrees to ratify and confirm whatever any attorney does or purports to do under its appointment under this clause.

13. MISCELLANEOUS

13.1 The Lender shall not be liable for any special, indirect, punitive or consequential loss except in the case of any gross negligence, wilful default or fraud of the Lender. This clause 13.1 shall not apply in the event that a court with jurisdiction determines that the Lender has acted fraudulently or to the extent the limitations of such liability would be precluded by virtue of sections 750 and 751 of the Companies Act 2006.

13.2 New Accounts

- (a) If the Lender receives or is deemed to have notice of any subsequent Security affecting the Security Subjects or any part of the Security Subjects, the Lender may open a new account in name of the Chargor.
- (b) If the Lender 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 security.
- (c) As from that time all payments made to the Lender by the Chargor or for its account will be credited or be treated as having been credited to the new account of the Chargor and will not operate to reduce any Secured Liability.

14. PRESERVATION OF SECURITY

14.1 Continuing security

This Chargor 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 of the Secured Liabilities.

14.2 Waiver of defences

Neither the obligations of the Chargor nor the Chargor Security under this Deed will not be affected by any act, omission or thing which, but for this clause 14.2, would reduce, release or prejudice any of its obligations under this Deed with Chargor Security (whether or not known to the Chargor or the Lender). This includes (without limitation):

- (a) any time or waiver granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement;
- (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 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; or
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person.

14.3 Immediate recourse

The Chargor waives any right it may have of first requiring the Lender (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.

14.4 Additional security

This Chargor Security is in addition to and is not in any way prejudiced by any other security now or subsequently held by the Lender.

15. RELEASE

At the end of the Security Period, the Lender must, at the request and cost of the Chargor, take whatever action is necessary to release the Security Subjects from this Chargor Security.

16. WARRANDICE

The Chargor grants warrandice but excepting therefrom the Lease between the Lender and Toys "R" Us Limited dated 9 February 2006 and registered in the Books of Council and Session on 23 March 2006 and in the Land Register of Scotland under title number GLA186194 as varied by a Minute of Variation of Lease between Toys "R" Us Properties (UK) Limited and Toys "R" Us Limited dated 27 March 2013, without prejudice to the right of the Lender to quarrel or impugn the same on any ground of law not inferring warrandice against the Chargor.

17. CONSENT TO REGISTRATION

The Chargor consents to registration of these presents for execution.

18. CONTRACT (THIRD PARTY RIGHTS) (SCOTLAND) ACT

The provisions contained within this Deed do not create any rights in favour of third parties under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or otherwise invoke any provision of this Deed. This clause does not affect any right or remedy of any person which exists or is available otherwise than under that Act.

19. GOVERNING LAW AND JURISDICTION

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

19.2 Jurisdiction

- (a) The courts of Scotland have exclusive jurisdiction to settle any dispute in connection with this Deed including a dispute regarding the existence, validity or termination of this Deed ("Dispute").
- (b) The courts of Scotland are the most appropriate and convenient courts to settle any Disputes and accordingly no Party will argue to the contrary.
- (c) This clause is for the benefit of the Lender only. To the extent allowed by law, the Lender may take:

- (i) proceedings in any other court; and
- (ii) concurrent proceedings in any number of jurisdictions

IN WITNESS WHEREOF these presents)
consisting of this and the preceding 8 pages)
hereto are subscribed for and on behalf of the)
said Bollinway Properties Limited)

at CHORLEY

on 19/09/2018

by

Signature

Name (block capitals)

Director

Witness signature

Witness name
(block capitals)

Witness address

CANAL MILL

BOTANY BROW

CHORLEY PRG 9AF