Companies House

MR01(ef)

Registration of a Charge

Company name: **LONDON & REGIONAL (HC PROPERTIES) LIMITED**

Company number: **05788421**

Received for Electronic Filing: **28/02/2018**

X70PY888

Details of Charge

Date of creation: **22/02/2018**

Charge code: **0578 8421 0015**

Persons entitled: **CBRE LOAN SERVICES LIMITED AS SECURITY TRUSTEE**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ALAN SOPPITT**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5788421

Charge code: 0578 8421 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd February 2018 and created by LONDON & REGIONAL (HC PROPERTIES) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th February 2018 .

Given at Companies House, Cardiff on 5th March 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

EXECUTION VERSION

Burness Paull

LONDON & REGIONAL (HC PROPERTIES) LIMITED
as Chargor

and

CBRE LOAN SERVICES LIMITED
as Security Trustee for the Finance Parties

ASSIGNATION OF RENTAL INCOME
in respect of the Leases

For and on behalf of Burness Paull LLP at Edinburgh on 27 February 2018
I certify that, save for the material redacted pursuant to section 859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument

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ASSIGNATION OF RENTAL INCOME

by

(1) **LONDON & REGIONAL (HC PROPERTIES) LIMITED**, a company incorporated under the Companies Acts with registered number 05788421 and having its registered office at Quadrant House, Floor 6, 4 Thomas More Square, London, E1W 1YW (the "**Chargor**")

in favour of

(2) **CBRE LOAN SERVICES LIMITED**, a company incorporated under the Companies Acts with registered number 05469838 and having its registered office at St. Martin's Court, 10 Paternoster Row, London, EC4M 7HP as Security Trustee for and on behalf of the Finance Parties as defined in the Facility Agreement referred to below (the "**Security Trustee**")

CONSIDERING THAT:

(A) the Finance Parties have agreed or will agree to make a loan facility available under the Facility Agreement (as defined below); and

(B) one of the conditions precedent to the availability of the facility referred to in paragraph (A) above is that the Chargor grants to the Security Trustee this assignation in security.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Instrument:

"**Facility Agreement**" means the facility agreement dated on or around the date of this Instrument and made between (amongst others) the Borrowers and Original Lenders named in it, M&G Investment Management Limited as Arranger, CBRE Loan Services Limited as Agent and Security Trustee and London & Regional (Health Clubs) Limited any agreement, letter or other instrument entered into under or supplemental to it or amending, restating or novating it;

"**Leases**" means each of the following, as may be amended, varied or supplemented from time to time:

(a) the lease between the Chargor and Next Generation Clubs Limited registered in the Land Register of Scotland under title number MID107179 on 10 August 2007;

(b) the lease between the Chargor and Next Generation Clubs Limited registered in the Land Register of Scotland under title number ANG47465 on 10 August 2007; and

(c) the lease between the Chargor and Next Generation Clubs Limited registered in the Land Register of Scotland under title number GLA195617 on 10 August 2007;

"Properties" means the following, as being the property more particularly described in the Leases:

(a) subjects on the west side of Western Harbour Drive, Edinburgh, registered in the Land Register of Scotland under title number MID107178;

(b) subjects at Ethiebeaton Park, Monifieth, Dundee registered in the Land Register of Scotland under title number ANG47463; and

(c) subjects on the north east side of Netherton Road, Glasgow registered in the Land Register of Scotland under title number GLA140149;

"Rental Income" means all sums paid or payable to or for the benefit of the Chargor arising from the letting, use or occupation of all or any part of the Properties, including, without limitation:

(a) rents, licence fees and equivalent sums reserved or made payable;

(b) sums received or receivable from any deposit held as security for performance of any tenant's obligations;

(c) a sum equal to any apportionment of rent allowed in favour of the Chargor;

(d) any other moneys paid or payable in respect of occupational and/or usage of the Properties and any fixture and fitting on the Properties including any fixture or fitting on the Properties for display or advertisement, on licence or otherwise;

(e) proceeds of insurance paid or payable in respect of loss of rent or interest on rent;

(f) any sum paid or payable from or the value of any consideration given for the grant, surrender, renunciation, amendment, supplement, waiver, extension, release or variation of any Occupational Lease;

(g) any service charge payments;

(h) proceeds paid or payable for a breach of covenant or burden or dilapidations under any Occupational Lease in relation to the Properties and for expenses incurred in relation to any such breach;

(i) any contribution to a sinking fund paid or payable by or distribution received or receivable from an occupational tenant under an Occupational Lease;

(j) any contribution by an occupational tenant of the Properties to ground rent due under any lease out of which the Chargor derives its interest in the Properties;

(k) any payment from a guarantor of an occupational tenant or other surety in respect of any of the items listed in this definition;

(l) interest, damages or compensation in respect of any of the items in this definition; and

(m) any amount which represents VAT chargeable in respect of any such sum;

"Secured Liabilities" means all monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from any Obligor to the Finance Parties under the Finance Documents whether actually or contingently, and whether solely or jointly with any other person and in whatever style or name and whether as principal or surety except for any obligation or liability which, if it were so included, would cause that obligation or liability or any Security Interest granted in respect of that obligation or liability to be unlawful or prohibited by any applicable law;

"Security Interest" means all or any of the Security created or expressed to be created in favour of the Security Trustee by or pursuant to this Instrument; and

"Winding-up" means winding up, amalgamation, reconstruction, administration, dissolution, liquidation, merger or consolidation or any analogous procedure or step in any jurisdiction.

1.2 **Construction**

1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Instrument, the same meaning in this Instrument.

1.2.2 The provisions of Clause 1.2 (Construction) of the Facility Agreement apply to this Instrument as though they were set out in full in this Instrument except that references to the Facility Agreement are to be construed as references to this Instrument.

1.2.3 A Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under that Finance Document or other agreement or instrument.

1.2.4 The term this **"Security"** means any security created by this Instrument.

1.2.5 A reference to any asset, unless the context otherwise requires, includes any present and future asset.

2 BOND

The Chargor undertakes to the Security Trustee (as trustee for the Finance Parties) that it shall pay all the Secured Liabilities to the Security Trustee when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Trustee.

3 ASSIGNATION

3.1 The Chargor hereby assigns to the Security Trustee (as trustee for the Finance Parties) all its right, title and interest in and to the Rental Income received, receivable or recoverable by the Chargor under or in respect of the Leases in security for the payment of all the Secured Liabilities.

3.2 The Chargor undertakes to the Security Trustee to use reasonable endeavours to procure payment of the Rental Income on the due dates under the Leases and to take all reasonable and proper steps to obtain payment of the same and any interest thereon as soon as possible thereafter.

3.3 The Chargor binds and obliges itself to validly execute an assignation in the same terms *mutatis mutandis* as this Instrument (**"Further Deed"**) relative to any further, additional or renewal lease of the Properties or any part thereof (**"Further Lease"**) and to deliver the same to the Security Trustee on or before the date of entry of the tenant thereunder.

3.4 The Chargor binds and obliges itself that upon the occasion of any permitted assignation or other permitted devolution of the tenant's interest in the Leases and/or in any Further Lease the Chargor shall forthwith intimate the same to the Security Trustee with full details of the transferee and shall grant such further deeds or documents as the Security Trustee may reasonably require to procure that such transferee shall as the case may be either continue to pay to the Security Trustee that part of the Rental Income due under the relevant Lease and/or the analogous sums due under any Further Lease and all instalments thereof as provided for herein or be obliged to do so forthwith upon the intimation to it of this Instrument (or the relevant Further Deed).

3.5 The Chargor undertakes to deliver to the Security Trustee within a reasonable period following upon a written demand a validly executed assignation of the benefit of any guarantee granted to the Chargor in respect of the obligations of any of the tenants under the Leases (and/or of the obligation of the tenant under any Further Lease), to the extent that such guarantee is assignable.

3.6 The Chargor shall not create or permit to subsist any Security over its entitlement to receive Rental Income, nor do anything else prohibited by Clause 20.3 (Negative pledge) of the Facility Agreement, except as permitted by that Clause.

3.7 The Chargor accepts that the Security Trustee shall be entitled to request the tenants under the Leases to pay the Rental Income and/or, at the Chargor's option, all (if any) value added tax payable thereon into a bank account or accounts to be nominated by the Security Trustee.

3.8 Without prejudice to the terms of Clause 3.7, the Security Trustee hereby instructs the Chargor that payment of the Rental Income shall be made to the account held with Barclays Bank PLC, the details of which are as follows:

London & Regional (HC Properties) Limited Rent Account

Account number: [redacted]

Sort Code: [redacted]

(as such account may be redesignated or renumbered from time to time) or any other account or accounts which may be substituted for that account by agreement between the parties or as nominated by the Security Trustee.

4 CONTINUING SECURITY

Subject to Clause 11 (*Discharge of Security*), the Security Interest is 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.

5 NOTICE OF ASSIGNATION

5.1 The assignation hereby constituted and the powers hereby granted shall have effect from the date of the Chargor's execution of this Instrument and the Chargor undertakes promptly, following its signature of this Instrument, to give the tenant or tenants under the Leases from time to time notice of this Instrument (and where any Further Deed is granted in terms thereof, to notify the same to all third parties having an interest in the contract or deed to which such Further Deed relates) and the assignation in terms thereof in the form prescribed in the schedule to this Instrument.

5.2 At any time after an Event of Default which is continuing, the Chargor undertakes to immediately give the tenant or tenants under the Leases from time to time notice of this Instrument (and where any Further Deed is granted in terms thereof, to notify the same to all third parties having an interest in the contract or deed to which such Further Deed relates) and the assignation in terms thereof in the form prescribed by the Security Trustee.

6 APPOINTMENT OF ATTORNEY

6.1 The Chargor hereby irrevocably appoints the Security Trustee, every Receiver and every delegate or sub-delegate of the Security Trustee severally as its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

6.1.1 to do anything which the Chargor is obliged to do (but has not done) under any Finance Document to which it is party (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Rental Income); and

6.1.2 to exercise any of the rights conferred on the Security Trustee, any Receiver or any delegate of the Security Trustee in relation to the Rental Income or under any Finance Document or the Insolvency Act 1986.

7 NOT HERITABLE CREDITOR IN POSSESSION

It is agreed between the parties that this Instrument is not intended to constitute the Security Trustee as heritable creditor in possession and operates only as an assignation of the Rental Income.

8 CERTIFICATES

A certificate signed by any official, manager or equivalent account officer of the Security Trustee shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time.

9 RECOVERY OF RENTAL INCOME

The Security Trustee shall not be under any obligation to take any steps to recover any Rental Income and shall not be under any liability by reason of its having abstained from taking such steps.

10 EXPENSES AND INDEMNITY

The Chargor shall, within three Business Days of demand, pay to the Security Trustee the amount of all costs, losses, liabilities and expenses (including legal fees) incurred by any Finance Party, any Receiver or any delegate of the Security Trustee in relation to any Finance Document (including the administration, protection, realisation, enforcement or preservation of any rights under or in connection with this Instrument, or any consideration by the Security Trustee as to whether to realise or enforce the same, and/or the costs and expenses incurred in connection with any amendment, waiver, consent or release of any Finance Document and/or any other document referred to in this Instrument).

11 DISCHARGE OF SECURITY

11.1 Subject to Clause 11.2, if the Security Trustee is satisfied that all the Secured Liabilities have been irrevocably paid in full and that all facilities which might give rise to Secured Liabilities have terminated, the Security Trustee shall at the request and cost of the Chargor release, reassign or discharge (as appropriate) the Rental Income from the Security Interest and return all deeds and documents of title held by the Security Trustee in relation to this Instrument and execute and deliver such further deeds, assignations, notices or other documents as the Chargor may reasonably require to give effect to this Clause.

11.2 If the Security Trustee considers that an amount paid to it or any Finance Party under any 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 Instrument.

12 SEVERABILITY

If any provision in this Instrument is prohibited or unenforceable in any jurisdiction, the prohibition or unenforceability shall not invalidate the remaining provisions of this Instrument or affect the validity or enforcement of the provisions in any other jurisdiction.

13 CONSENT TO REGISTRATION

The Chargor hereby consents to the registration of this Instrument and of any certificate referred to in Clause 8 (*Certificates*) for preservation.

14 WARRANDICE

The Chargor warrants this Instrument absolutely.

15 **NOTICES**

All notices, requests, demands and other communications to be given under this Instrument shall be given and/or be deemed to be given in the same manner as notices to be given under the Facility Agreement and the terms of Clause 31 (Notices) of the Facility Agreement shall apply *mutatis mutandis* to this Instrument as though that Clause were set out in full in this Instrument.

16 **GOVERNING LAW AND JURISDICTION**

This Instrument shall be governed by and construed in accordance with the law of Scotland and the parties hereto agree to submit to the non-exclusive jurisdiction of the Scottish courts: IN WITNESS WHEREOF these presents consisting of this and the preceding 7 pages, together with the Schedule appended hereto, are executed in counterpart as follows and DELIVERED ON 22 February 2018:

THE CHARGOR

SUBSCRIBED for and on behalf of
the said **LONDON & REGIONAL (HC PROPERTIES) LIMITED**

at 55 Baker Street, London W1U 8EW

on 5 February 2018

by

RICHARD LUCK	[redacted]
Print Full Name	Director

before this witness

JACQUELINE LOWES	[redacted]
Print Full Name	Witness

Address
55 Baker Street
London
W1U 8EW

THE SECURITY TRUSTEE

SUBSCRIBED for and on behalf of
the said **CBRE LOAN SERVICES LIMITED**

at CBRE Loan Services
Henrietta House
Henrietta Place
London
W1G 0NB

on 01/02/2018

by

STEVEN AMBRIDGE
Authorised Signatory

Print Full Name

[redacted]

Authorised Signatory

and

DOLORES GUCKION
AUTHORISED SIGNATORY

Print Full Name

[redacted]

Authorised Signatory

both before this witness

LISA JANE DAY

Print Full Name

In the presence of
Witness Signature: [redacted]
Witness Name: Lisa Day
Occupation: Senior Analyst
Address: Henrietta House, Henrietta Place, [redacted]
London W1G 0NB

Witness

Address

This is the Schedule referred to in the foregoing assignation of rental income granted by LONDON & REGIONAL (HC PROPERTIES) LIMITED in favour of CBRE LOAN SERVICES LIMITED and delivered on 22 February 2018

SCHEDULE – FORM OF INTIMATION

To: [Tenant]

Attention: [●]

Dear Sirs

Lease of subjects at [●]

We refer to [lease details] of subjects at [●], therein described (the "**Lease**").

We hereby intimate to you that, pursuant to a deed of retrocession and reassignation dated [●] (the "**Retrocession**"), a certified copy of which is appended to this notice, CBRE Loan Services Limited (as security trustee for the Finance Parties (as such term is defined in the Retrocession)) have reassigned and retrocessed to us all our right, title and interest in and to the rental income and other sums receivable by the landlord under the terms of the Lease which we had previously assigned to CBRE Loan Services Limited pursuant to an assignation of rental income dated 27 June 2017 and registered at Companies House on 1 July 2017.

We hereby further intimate to you that, pursuant to an assignation of rental income dated [●] (the "**Assignation**"), a certified copy of which is appended to this notice, we have now assigned to CBRE Loan Services Limited (as security trustee for and on behalf of the Finance Parties (as such term is defined in the Assignation)) (the "**Security Trustee**") all our right, title and interest in and to the rental income and other sums receivable by the landlord under the terms of the Lease.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions which may have been given to the contrary) until you receive notice from the Security Trustee to the contrary to pay rent and all other monies payable by you under the Lease to the following account, details of which are as follows:

[*Insert details of account*],

or any other account or accounts which may be substituted for that account by agreement between the parties or as nominated by the Security Trustee.

Please acknowledge receipt of this notice of intimation and your acceptance of its contents by signing the enclosed duplicate form of acknowledgement and returning it to the Security Trustee at [●].

This letter is governed by Scots law.

Yours faithfully

....

For and on behalf of London & Regional (HC Properties) Limited

Agreed and acknowledged by CBRE Loan Services Limited

....

For and on behalf of CBRE Loan Services Limited

Form of acknowledgement

To: Security Trustee

Attention: [●]

Dear Sirs

Lease of [●]

We, the tenant under the Lease (as defined in the notice of intimation, of which this is a duplicate), hereby acknowledge receipt of the notice of intimation and acceptance of its terms.

Yours faithfully

....

For and on behalf of [Tenant]