



Registration of a Charge

Company Name: **HATHAWAY OPPORTUNITY FUND GENERAL PARTNER LIMITED**

Company Number: **06278378**



Received for filing in Electronic Format on the: **06/08/2021**

XAAC6D2X

Details of Charge

Date of creation: **02/08/2021**

Charge code: **0627 8378 0011**

Persons entitled: **HSBC UK BANK PLC**

Brief description: **STADIUM WAY INDUSTRIAL ESTATE AND LOVEROCK ROAD ESTATE, READING (TITLE NUMBERS BK157304 AND BK113358); ST ANDREWS SHOPPING CENTRE, DROITWICH SPA (HW137458); MARUS BRIDGE RETAIL PARK, WIGAN (GM687683). FOR MORE DETAILS REFER TO INSTRUMENT**

Contains fixed charge(s).

Contains negative pledge.

Chargor acting as a bare trustee for the property.

Authentication of Form

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

Authentication of Instrument

Certification statement: **WE 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 PART OF THE CHARGING INSTRUMENT SIGNED BY OR ON BEHALF OF THE**

**CHARGOR, AND A CORRECT COPY OF THE SIGNATURE PAGE TO
EACH OTHER PART OF SUCH CHARGING INSTRUMENT.**

Certified by:

DENTONS UK AND MIDDLE EAST LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6278378

Charge code: 0627 8378 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd August 2021 and created by HATHAWAY OPPORTUNITY FUND GENERAL PARTNER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th August 2021 .

Given at Companies House, Cardiff on 9th August 2021

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**

Legal Mortgage

Dated 2 August **2021**

Hathaway Opportunity Fund LP

(acting by its general partner **Hathaway Opportunity Fund General Partner Limited**)
(Mortgagor)

HSBC UK Bank plc

(Lender)

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Legal Mortgage

Dated 2 August 2021

Between:

- (1) **Hathaway Opportunity Fund LP** (Registered number LP012268) acting by its general partner **Hathaway Opportunity Fund General Partner Limited** (Registered number 06278378) (the **Mortgagor**); and
- (2) **HSBC UK Bank plc** of Level 6, 71 Queen Victoria Street London EC4V 4AY (the **Lender**).

Background:

- A The Mortgagor 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.

Agreement for Lease means an agreement to grant an Occupational Lease for all or part of the Mortgaged Property.

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration relating to the Mortgaged Property.

Collateral Warranty means any collateral warranty given by any:

- (a) trade or building contractor; or
- (b) architect, engineer, surveyor or other consultant,

in respect of the Mortgaged Property.

Delegate means any delegate, agent, attorney or trustee appointed by the Lender.

Facility Agreement means the £28,800,000 Facility Agreement dated on or about the date of this Deed between (among others) the Mortgagor and the Lender.

Insurance means, each contract or policy of insurance to which the Mortgagor is a party or in which it has an interest in relation to the Mortgaged Property.

Lease Document means:

- (a) an Agreement for Lease; or
- (b) an Occupational Lease.

Mortgaged Property means the freehold or leasehold property owned by the Mortgagor and specified in Schedule 1 (*Mortgaged Property*).

Occupational Lease means any lease or licence or other right of occupation or right to receive rent to which the Mortgaged Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

Party means a party to this Deed.

Receiver means an administrative receiver, a receiver and/or manager of any or all of an Obligor's assets appointed by the Lender under this Deed.

Relevant Contract means:

- (a) an appointment of any managing agent appointed by the Mortgagor in respect of the Mortgaged Property;
- (b) an appointment of any asset manager appointed by the Mortgagor in respect of the Mortgaged Property; and
- (c) an agreement relating to the purchase of any Mortgaged Property by the Mortgagor.

Relevant Jurisdiction means England and Wales and (if different):

- (a) the Mortgagor's jurisdiction of incorporation; and
- (b) any jurisdiction where the Mortgagor conducts its business.

Rental Income means the aggregate of all amounts paid or payable to or for the benefit of any Obligor who has granted Security over any Property in connection with the letting, use or occupation of that Property including:

- (a) rents, licence fees and equivalent amounts in respect of that Property
- (b) any amount paid from any deposit held as security for the performance of any lessee's obligations under any Lease
- (c) any other monies paid or payable in respect of use and/or occupation of all or any part of that Property
- (d) any insurance proceeds in respect of loss of rent in respect of all or any part of that Property
- (e) any amount paid in respect of a breach of covenant under any Lease and any related costs and expenses
- (f) any amount equal to any apportionment of rent allowed in favour of any Obligor under a contract for the purchase of that Property
- (g) any Tenant Contributions

- (h) any amount paid by a guarantor in respect of any item set out in paragraphs (a) to (g) above
- (i) any interest, damages or compensation in respect of any item set out in paragraphs (a) to (h) above and
- (j) any VAT on any amount set out in paragraphs (a) to (i) above.

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to the Lender under each Finance Document, except for any obligation which, if it were so included, would result in this Deed contravening section 678 or 679 of the Companies Act 2006.

Security means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.

Security Asset means any asset of the Mortgagor which is, or is expressed to be, subject to any Security created by this Deed.

Security Period means the period from and including the date of this Deed until the later of:

- (a) the date all the Secured Liabilities have unconditionally and irrevocably been paid and discharged in full; and
- (b) the date on which the Commitment has been reduced to zero.

1.2 Construction

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

1.2.2 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.

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

- (a) 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;
- (b) any **rights** in respect of an asset includes:
 - (i) all amounts and proceeds paid or payable;
 - (ii) all rights to make any demand or claim; and
 - (iii) all powers, remedies, causes of action, security, guarantees and indemnities, in each case in respect of or derived from that asset;

(c) the term **this Security** means any Security created by this Deed.

- 1.2.4 Each of the mortgages, fixed charges and assignments contained in Clauses 2.2 (*Mortgaged Property*) to 2.5 (*Other contracts*) (inclusive) over each category of assets and each asset specified in those Clauses shall be read and construed separately, as though each such category and asset were mortgaged, charged or assigned (as applicable) independently and separately of each other.
- 1.2.5 Any covenant of the Mortgagor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- 1.2.6 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.
- 1.2.7 If the Lender considers (acting reasonably) that an amount paid to it 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.
- 1.2.8 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

- 1.3.1 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.
- 1.3.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed at any time.
- 1.3.3 Any Receiver, any Delegate or any person described in Clause 7.4 (*Protection of third parties*) may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to Clause 1.3.2 above and the provisions of the Third Parties Act.

2 Creation of Security

2.1 General

- 2.1.1 The Mortgagor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.
- 2.1.2 All the Security created under this Deed:
- (a) is created in favour of the Lender;
 - (b) is created over present and future assets of the Mortgagor;
 - (c) is security for the payment and discharge of all the Secured Liabilities; and

- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

2.2 Mortgaged Property

The Mortgagor charges by way of a first legal mortgage all estates or interests in the Mortgaged Property.

2.3 Plant and machinery

To the extent that they are not the subject of a mortgage under Clause 2.2 (*Mortgaged Property*), the Mortgagor charges by way of a first fixed charge all plant and machinery situated on the Mortgaged Property owned by the Mortgagor, together with the benefit of all related Authorisations, agreements and warranties in respect of the Mortgaged Property.

2.4 Insurances

- 2.4.1 The Mortgagor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under each Insurance.
- 2.4.2 To the extent that they have not been effectively assigned under Clause 2.4.1 above, the Mortgagor charges by way of first fixed charge each Insurance.

2.5 Collateral Warranties

The Mortgagor charges by way of fixed charge all its rights under any Collateral Warranty.

2.6 Other contracts relating to the Mortgaged Property

- 2.6.1 The Mortgagor:

- (a) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
 - (i) under each Lease Document;
 - (ii) in respect of all Rental Income;
 - (iii) under any guarantee of Rental Income contained in or relating to any Lease Document; and
 - (iv) under each Relevant Contract.

- 2.6.2 To the extent that they have not been effectively assigned under paragraph (a) of Clause 2.6.1 above, the Mortgagor charges by way of a first fixed charge all of its rights listed under paragraph (a) of Clause 2.6.1 above.

2.7 Trust

If or to the extent that the assignment or charging of any Security Asset is ineffective because of a prohibition on that assignment or charging, the Mortgagor holds it on trust for the Lender.

3 Notices of Security

3.1 Notices to tenants

The Mortgagor must:

- (a) serve a notice of assignment, substantially in the form of Part 1 of Schedule 2 (*Forms of Letter for Occupational Tenants*), on each tenant of a Mortgaged Property, such notice to be served:
 - (i) within one Business Day of the date of this Deed for each tenant in place on that date as agreed between the Mortgagor and the Lender in writing;
 - (ii) promptly after the entry into the relevant Lease Document, in respect of any Lease Document with a rental value of greater than £100,000 per annum;
 - (iii) for any other tenant in occupation as at the date of this Deed, or for any other tenant not falling within paragraphs (i) or (ii) above, promptly on request by the Lender at a time when an Event of Default is continuing,

and deliver to the Lender a certified copy of each notice; and

- (b) use reasonable endeavours to ensure that each such tenant acknowledges that notice, substantially in the form of Part 1 of Schedule 2 (*Forms of Letter for Occupational Tenants*).

3.2 Insurance

The Mortgagor shall:

- (a) promptly after the execution of this Deed or (as the case may be) promptly after the execution of any Insurances entered into after the date of this Deed (to the extent the relevant counterparty has not already been notified of the assignment created under Clause 2.4 (*Insurances*)) give notice to the counterparties to the Insurances of the assignment created under Clause 2.4 (*Insurances*), each such notice to be in the form set out in Part 1 of Schedule 3 (*Forms of Letter for Insurances*) (or other form approved by the Lender) and deliver to the Lender a certified copy of each notice; and
- (b) use its reasonable endeavours to procure that each party served with a notice under paragraph (a) of this Clause countersigns and returns it to the Lender substantially in the form set out in Part 2 of Schedule 3 (*Forms of Letter for Insurances*) (or in any other form approved by the Lender).

3.3 Other contracts

The Mortgagor must at the request of the Lender promptly serve a notice of assignment or charge (as applicable) (in a form satisfactory to the Lender, including as to the request for acknowledgment) on each counterparty to a contract listed in Clause 2.5 (*Collateral Warranties*) and deliver to the Lender a certified copy of each notice and use reasonable endeavours to ensure that each such party provides an acknowledgment of that notice to the Lender.

4 General undertakings

4.1 Negative pledge

Except as expressly allowed or consented to under the Facility Agreement or this Deed, the Mortgagor must not create or permit to subsist any Security on any Security Asset.

4.2 Disposals

Except as expressly allowed or consented to under the Facility Agreement or this Deed, the Mortgagor must not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer, loan, or otherwise dispose of all or any part of any Security Asset, or enter into an agreement to make any such disposal.

4.3 Preservation of Security Assets

The Mortgagor shall not:

- (a) enter into any onerous obligation or restriction affecting any Security Asset; or
- (b) do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the Security created by this Deed or materially diminish the value of any Security Asset or the effectiveness of the Security created by this Deed.

5 Property Undertakings

5.1 Land Registry

- 5.1.1 The Mortgagor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at the Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated ** in favour of ** referred to in the charges register or their conveyancer. (Standard Form P)".

5.2 Deposit of title deeds

To the extent not already done, the Mortgagor must promptly:

- (a) deposit with the Lender all deeds and documents necessary to show good and marketable title to the Mortgaged Property (the **Title Documents**);
- (b) procure that the Title Documents are held at the applicable Land Registry to the order of the Lender; or
- (c) procure that the Title Documents are held to the order of the Lender by a firm of solicitors approved by the Lender for that purpose (and for this purpose, Gowling WLG (UK) LLP, and Dentons UK and Middle East LLP are all approved).

6 When Security Becomes Enforceable

6.1 Event of Default

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

6.2 Discretion

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

6.3 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.

7 Enforcement of Security

7.1 General

7.1.1 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.

7.1.2 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.

7.1.3 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options as the Lender may think fit and without the need to comply with any provision of section 99 or section 100 of the Act.

7.2 No liability as mortgagee in possession

Neither the Lender 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.

7.3 Privileges

The Lender 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.

7.4 Protection of third parties

No person (including a purchaser) dealing with the Lender 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 Lender 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 Lender or to that Receiver is to be applied.

7.5 Redemption of prior mortgages

7.5.1 At any time after this Security has become enforceable, the Lender may:

- (a) redeem any prior Security against any Security Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) 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 the Mortgagor.

7.5.2 The Mortgagor must pay to the Lender, immediately on demand, the costs and expenses incurred by the Lender in connection with any such redemption and/or transfer, including the payment of any principal or interest.

7.6 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 Lender (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

8 Preservation of Security

8.1 Reinstatement

If any payment by the Mortgagor or discharge given by the Lender (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- (a) the liabilities of the Mortgagor and the Security created by this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Lender shall be entitled to recover the value or amount of that Security or payment from the Mortgagor, as if the payment, discharge, avoidance or reduction had not occurred.

8.2 Waiver of defences

Neither the Security created by this Deed nor the obligations of the Mortgagor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any person;

- (c) the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) 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;
- (e) any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- (g) any insolvency, liquidation, administration or similar procedure.

8.3 Mortgagor intent

Without prejudice to the generality of Clause 8.2 (*Waiver of defences*), the Mortgagor expressly confirms that it intends that the Security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and

any fees, costs and/or expenses associated with any of the foregoing.

8.4 Immediate recourse

The Mortgagor 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 Mortgagor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

8.5 Appropriations

During the Security Period the Lender may:

- (a) refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 11 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Mortgagor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Mortgagor or on account of the Secured Liabilities.

8.6 Deferral of Mortgagor's rights

During the Security Period and unless the Lender otherwise directs, the Mortgagor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or the enforcement of the Security created by this Deed:

- (a) to receive or claim payment from, or be indemnified by an Obligor;
- (b) to claim any contribution from any guarantor of, or provider of Security in respect 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 Lender under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- (d) to exercise any right of set-off against any Obligor; and/or
- (e) to claim or prove as a creditor of any Obligor in competition with the Lender.

8.7 Additional Security

This Legal Mortgage is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to the Lender.

9 Receiver

9.1 Appointment of Receiver

9.1.1 Except as provided below, the Lender may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- (a) this Security has become enforceable; or
- (b) the Mortgagor so requests to the Lender at any time.

9.1.2 Any appointment under Clause 9.1.1 above may be by deed, under seal or in writing under its hand.

9.1.3 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.

9.1.4 If section A52 of Part A1 of the Insolvency Act 1986 applies to this Deed, the Lender 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 Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.

9.1.5 The Lender may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Lender 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.

9.2 Removal

The Lender 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.

9.3 Remuneration

The Lender 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.

9.4 Agent of the Mortgagor

9.4.1 A Receiver will be deemed to be the agent of the Mortgagor 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 Mortgagor alone is responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.

9.4.2 The Lender will not incur any liability (either to the Mortgagor or to any other person) by reason of the appointment of a Receiver or for any other reason.

9.5 Relationship with Lender

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

10 Powers of Receiver

10.1 General

10.1.1 A Receiver has all of the rights, powers and discretions set out below in this Clause 10 in addition to those conferred on it by any law. This includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.

10.1.2 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.

10.2 Possession

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

10.3 Carry on business

A Receiver may carry on any business of the Mortgagor carried out at, or relating to, the Mortgaged Property in any manner he/she thinks fit.

10.4 Employees

10.4.1 A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he/she thinks fit.

10.4.2 A Receiver may discharge any person appointed by the Mortgagor from any duties relating to the Security Assets.

10.5 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.

10.6 Sale of assets

10.6.1 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.

10.6.2 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.

10.6.3 Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Mortgagor.

10.7 Leases

A Receiver may let the Mortgaged Property for any term and at any rent (with or without a premium) which he/she thinks fit and may accept a surrender of any lease or tenancy of the Mortgaged Property on any terms which he/she thinks fit (including the payment of money to a lessee or tenant on a surrender).

10.8 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 the Mortgagor or relating in any way to any Security Asset.

10.9 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.

10.10 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.

10.11 Subsidiaries

A Receiver may form a Subsidiary of the Mortgagor and transfer to that Subsidiary any Security Asset.

10.12 Delegation

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

10.13 Lending

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

10.14 Protection of assets

A Receiver may:

- (a) effect any repair or insurance and do any other act which the Mortgagor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation on the Mortgaged Property; and
- (c) apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he/she thinks fit.

10.15 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 the Mortgagor for any of the above purposes.

11 Application of Proceeds

All amounts from time to time received or recovered by the Lender 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 Lender 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 the Lender to recover any shortfall from the Mortgagor.

12 Protection of the Lender and Receivers

12.1 Exclusion of liability

None of the Lender, any Receiver or any Delegate will be liable (including for negligence or any other category of liability) for:

- (a) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with this Deed or the Security Assets, unless directly caused by its gross negligence or wilful misconduct;
- (b) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with this Deed or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, this Deed;
- (c) any shortfall which arises on the enforcement or realisation of the Security Assets;
- (d) any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies under Clause 16.6 (*Currency conversion*); or
- (e) the loss of any title deed or other document relating to the Security Assets, unless directly caused by its gross negligence or wilful misconduct.

12.2 Mortgagor's Indemnity

12.2.1 The Mortgagor shall (but without double counting any amount recoverable under any other Finance Document) promptly indemnify the Lender, and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:

- (a) the taking, holding, protection or enforcement of the Security conferred by this Deed;
- (b) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Lender and each Receiver and any Delegate by this Deed or by law;
- (c) any default by the Mortgagor in the performance of any of the obligations expressed to be assumed by it in this Deed;
- (d) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts in connection with this Deed or the Security Assets; or
- (e) acting as Lender, Receiver or Delegate under this Deed or which otherwise relates to any of the Security Assets (otherwise, in each case, than by reason of the Lender's or the relevant Receiver's or Delegate's gross negligence or wilful misconduct).

12.2.2 The Lender and every Receiver and Delegate may indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 12.2 and shall have a lien on the Security conferred by this Deed and the proceeds of the enforcement of the Security Assets for all moneys payable to it.

13 Delegation

13.1 Power of Attorney

The Lender 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.

13.2 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 Lender or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Lender.

13.3 Liability

Neither the Lender 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.

14 Further Assurances

14.1.1 The Mortgagor must promptly, at its own expense, take whatever action the Lender or a Receiver may reasonably require for:

- (a) creating, perfecting or protecting any security over any Security Asset; or
- (b) (if the Security constituted by this Deed has become enforceable) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Lender or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

14.1.2 The action that may be required under Clause 14.1.1 above includes:

- (a) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset, whether to the Lender or to its nominees;
- (b) the giving of any notice, order or direction and the making of any filing or registration; or
- (c) while any Event of Default is continuing, assigning any Collateral Warranty capable of assignment to any person nominated by the Lender or any Receiver,

which, in any such case, the Lender may consider necessary or desirable.

15 Power of Attorney

The Mortgagor, by way of security, irrevocably appoints the Lender, each Receiver and any of their respective delegates or sub-delegates jointly and severally to be its attorney with the full power and authority of the Mortgagor, at any time after an Event of Default occurs and is continuing, 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 the Mortgagor under or pursuant to this Deed or

generally for enabling the Lender or any Receiver to exercise the respective powers conferred on them under this Deed or by law. The Mortgagor ratifies and confirms whatever any attorney does or purports to lawfully do under its appointment under this Clause 15.

16 Miscellaneous

16.1 Registration at Companies House

The Mortgagor consents to the registration of this Deed at Companies House pursuant to Part 25 of the Companies Act 2006.

16.2 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.

16.3 Tacking

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

16.4 New Accounts

16.4.1 If any subsequent charge or other interest affects any Security Asset, the Lender may open a new account with the Mortgagor.

16.4.2 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 charge or other interest.

16.4.3 As from that time all payments made to the Lender will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

16.5 Time deposits

Without prejudice to any right of set-off the Lender may have under any other Finance Document or otherwise, if any time deposit matures on any account the Mortgagor has with the Lender 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 the Lender considers appropriate.

16.6 Currency conversion

16.6.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any moneys received or recovered by the Lender from one currency to another, at a market rate of exchange.

- 16.6.2 The obligations of any Transaction Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

17 Release

At the end of the Security Period, unless any third party has any subrogation or other rights in respect of the Security created by this Deed at that time, the Lender must, at the request and cost of the Mortgagor, take whatever action is necessary to release its Security Assets from this Security.

18 Costs and expenses

18.1 Transaction expenses

Without double counting any amount recoverable under any other Finance Document, the Mortgagor shall promptly on demand pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of this Deed.

18.2 Amendment costs

Without double counting any amount recoverable under any other Finance Document, if the Mortgagor requests an amendment, waiver, consent or release of or in relation to this Deed, the Mortgagor shall, within three Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by it in responding to, evaluating, negotiating or complying with that request or requirement.

18.3 Enforcement costs

Without double counting any amount recoverable under any other Finance Document, the Mortgagor shall, within three Business Days of demand, pay to the Lender or any Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by the Lender or any Receiver or Delegate in connection with the enforcement of, or the preservation of any rights under, this Deed or the investigation of any possible Default.

19 Assignment

The Lender may assign any of its rights under this Deed to any person to whom it assigns or transfers any of its rights or obligations under the Facility Agreement.

20 Notices

20.1 Communications in writing

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

20.2 Addresses

- 20.2.1 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below or any

substitute address, fax number or department or officer as either party may notify to the other by not less than five Business Days' notice.

20.2.2 The addresses referred to in Clause 20.2.1 are:

(a) The Mortgagor:

21a Kingly Street, London, W1B 5QA and Tiddington Road, Stratford Upon Avon,
Warwickshire, CV37 7BJ

Attention: Robert Bourne

Fax: N/A

(b) The Lender:

Transaction Management, Real Estate Finance London, Large Corporates UK, HSBC
UK Bank plc, Level 6, 71 Queen Victoria Street London EC4V 4AY

Attention: Colin Whitelaw / Peter Roberts

Fax: N/A

20.3 Delivery

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

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, (i) when it has been left at the relevant address or (ii) two Business Days (or, in the case of airmail, five Business Days) after being deposited in the post postage prepaid (or, as the case may be, airmail postage prepaid), in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 20.2 (*Addresses*), if addressed to that department or officer.

20.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified in Clause 20.2.2 (or any substitute department or officer as the Lender shall specify for this purpose).

20.4 English language

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

20.4.2 All other documents provided under or in connection with this Deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Lender 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.

21 Governing law and enforcement

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

21.1 Jurisdiction

21.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).

21.1.2 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.

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

Schedule 1 – Mortgaged Property

Property description and address	Title number(s)
Stadium Way Industrial Estate and Loverock Road Estate, Reading	BK157304 and BK113358
St Andrews Square Shopping Centre, Droitwich Spa, Worcestershire	HW137458
Marus Bridge Retail Park, Wigan WN3 68A	GM687683

Schedule 2– Forms of Letter for Occupational Tenants

Part 1– Notice to Occupational Tenant

To: [Occupational tenant]

Copy: [Lender]

[Date]

Dear Sirs,

Re: [Property address]

Legal Mortgage dated ** between [Mortgagor] and [Lender] (the Legal Mortgage)

We refer to the lease dated ** and made between ** and ** (together with any future lease we may enter into with you in relation to any part of *[insert details of the Mortgaged Property]*, the **Lease**).

This letter constitutes notice to you that under the Legal Mortgage we have assigned [absolutely]¹ (by way of security) to [Lender] (the **Lender**) all our rights under the Lease.

We confirm that:

- (a) we will remain liable under the Lease to perform all the obligations assumed by us under the Lease; and
- (b) none of the Lender, 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 Lease.

[We will also remain entitled to exercise all our rights, powers and discretions under the Lease, and you should continue to give notices under the Lease to us, unless and until you receive notice from the Lender to the contrary stating that the security under the Legal Mortgage has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and all notices must be given to, the Lender or as it directs].²

[We irrevocably instruct and authorise you to pay all rent and all other moneys payable by you under the Lease to our account [with the Lender] at ** , Account No. ** , Sort Code ** (the **Rent Account**).]³

The instructions in this letter apply until you receive notice from the Lender to the contrary and notwithstanding any previous instructions given by us.

¹ Only include the reference to "absolutely" if this notice is being served at the request of the Lender following an Event of Default which is continuing or in any circumstances where the occupational tenants should be dealing directly with the Lender and not the Mortgagor

² This paragraph should not be included in any notice served at the request of the Lender following an Event of Default which is continuing or in any circumstances where the occupational tenants should be dealing directly with the Lender and not the Mortgagor.

³ This paragraph should be included in any notice served at the request of the Lender following an Event of Default which is continuing

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

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

Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the Lender at [address] with a copy to us.

Yours faithfully,

.....

(Authorised Signatory)

[Mortgagor]

Part 2 – Acknowledgement of Occupational Tenant

To: [Lender]

Attention: **

[Date]

Dear Sirs,

Re: [Property address]

Legal Mortgage dated ** between [Mortgagor] and [Lender] (the Legal Mortgage)

We confirm receipt from [Mortgagor] (the **Mortgagor**) of a notice dated ** (the **Notice**) in relation to the Lease (as defined in the Notice).

We confirm that we:

- (a) accept the instructions contained in the Notice and agree to comply with the Notice;
- (b) have not received any notice of any prior security over the Lease or that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Mortgagor under or in respect of the Lease;
- (c) [must pay all rent and all other moneys payable by us under the Lease into the Rent Account (as defined in the Notice); and]⁴
- (d) [must continue to pay those moneys into the Rent Account (as defined in the Notice) until we receive your written instructions to the contrary.]⁵

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

Yours faithfully,

.....

For

[Occupational tenant]]

⁴ This paragraph should be included in any notice served at the request of the Lender following an Event of Default which is continuing

⁵ This paragraph should be included in any notice served at the request of the Lender following an Event of Default which is continuing

Schedule 3 – Forms of Letter for Insurers

Part 1– Notice to Insurer

To: [Insurer]

Copy: [Lender]

[Date]

Dear Sirs,

Legal Mortgage dated ** **between [Mortgagor] and [Lender] (the Legal Mortgage)**

This letter constitutes notice to you that under the Legal Mortgage we have assigned (by way of security), to [Lender] (the **Lender**) all our rights in respect of [insert details of contract of insurance] and any other present or future contract or policy of insurance in relation to *[insert details of the Mortgaged Property]* to which we are a party or in which we have an interest (the **Insurance**).

We confirm that:

- (a) we will remain liable under the Insurance to perform all the obligations assumed by us under the Insurance; and
- (b) none of the Lender, 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 Insurance (unless, and to the extent, otherwise expressly provided for in the Insurance).

We will also remain entitled to exercise all our rights, powers and discretions under the Insurance, and you should continue to give notices and make payments under the Insurance to us (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Lender in respect of the Insurance), unless and until you receive notice from the Lender to the contrary stating that the security under the Legal Mortgage 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 Lender or as it directs (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Lender in respect of the Insurance).

We irrevocably instruct and authorise you to disclose to the Lender any information relating to the Insurance requested from you by the Lender.

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

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 Lender at [address] with a copy to us.

Yours faithfully,

.....
(Authorised signatory)
[Mortgagor]

Part 2 – Acknowledgement of Insurer

To: [Lender]

Copy: [Mortgagor]

[Date]

Dear Sirs,

Legal Mortgage dated ** between [Mortgagor] and [Lender] (the Legal Mortgage)

We confirm receipt from [Mortgagor] (the **Mortgagor**) of a notice dated ** (the **Notice**) of an assignment on the terms of the Legal Mortgage of all the Mortgagor's rights in respect of [insert details of the contract of insurance] and any other present or future contract or policy of insurance in relation to *[insert details of the Mortgaged Property]* to which we are a party or in which we have an interest (the **Insurance**).

We confirm that we:

- (a) accept the instructions contained in the Notice and agree to comply with the Notice;
and
- (b) will give notices and make payments under the Insurance 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)
[Insurer]]

Signatories

Executed as a deed by Hathaway)
Opportunity Fund LP (acting by its)
general partner, Hathaway Opportunity)
Fund General Partner Limited)
acting by a director in the presence of;)

Signature of witness:

Name of witness (in BLOCK CAPITALS):

Address

BRYONY PLAIN-JONES

Signed for and on behalf of)
HSBC UK Bank plc)

Signatories

Executed as a deed by Hathaway)
Opportunity Fund LP (acting by its)
general partner, **Hathaway Opportunity)**
Fund General Partner Limited)
acting by a director in the presence of;)

Signature of witness:

Name of witness (in BLOCK CAPITALS):

Address
.....
.....

Signed for and on behalf of)
HSBC UK Bank plc) 