

MR01

Particulars of a charge



Companies House



Go online to file this information
www.gov.uk/companieshouse

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

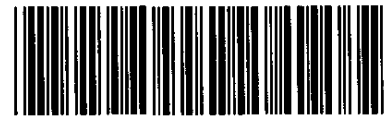
☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form MR08.

For further information, please
refer to our guidance at:
www.gov.uk/companieshouse

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

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



A8F8ZE3E

A21

02/10/2019

#196

COMPANIES HOUSE

WEDNESDAY

1 Company details

Company number 0 0 1 0 1 6 2 5

Company name in full WITAN INVESTMENT TRUST PLC

7 For official use

Filling in this form

Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 0 1 1 0 2 0 1 9

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

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

Name PRUDENTIAL TRUSTEE COMPANY LIMITED (as Security Trustee)

Name

Name

Name

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

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

MR01

Particulars of a charge

4	Brief description	
Brief description	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument". Please limit the description to the available space.
	N/A	
5	Other charge or fixed security	
	Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
6	Floating charge	
	Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes Continue <input type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> Yes	
7	Negative Pledge	
	Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	Trustee statement ^①	
	You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	^① This statement may be filed after the registration of the charge (use form MR06).
9	Signature	
Signature	Please sign the form here. <div style="border: 1px solid black; padding: 5px;"> <input checked="" type="checkbox"/> Signature X Morrison & Forester (UK) LLP (acting on behalf of the chargee) X </div>	
	This form must be signed by a person with an interest in the charge.	

MR01

Particulars of a charge

**Presenter information**

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

Contact name **Isabelle Lee**

Company name **Morrison & Foerster (UK) LLP**

Address **Citypoint**

One Ropemaker St

Post town **London**

County/Region **London**

Postcode **E C 2 Y 9 A W**

Country **England**

DX

Telephone **07583022520 / 02079204049**

**Certificate**

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

**Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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

**Important information**

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

**How to pay**

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper. ✓

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

**Where to send**

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

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:

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

For companies registered in Northern Ireland:

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

**Further information**

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

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



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 101625

Charge code: 0010 1625 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st October 2019 and created by WITAN INVESTMENT TRUST PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd October 2019.

P

Given at Companies House, Cardiff on 11th October 2019

EXECUTION VERSION

SECURITY TRUST DEED

DATED 1 OCTOBER 2019

BETWEEN

WITAN INVESTMENT TRUST PLC

- and -

PRUDENTIAL TRUSTEE COMPANY LIMITED

We certify this to be a true copy of the original

Dated 1 October 2019

Morrison & Foerster (UK) LLP



(SOLICITOR)

Morrison & Foerster (UK) LLP

CityPoint

One Ropemaker Street

London

EC2Y 9AW

ALLEN & OVERY

Allen & Overy LLP

0029914-0000637 ICM:33161635 7

CONTENTS

1.	Interpretation.....	3
2.	Creation of Security	7
3.	Representations - General	10
4.	<i>Restrictions on Dealings</i>	10
5.	When Transaction Security becomes Enforceable.....	10
6.	Enforcement of Transaction Security	12
7.	Receiver	13
8.	Powers of Receiver	14
9.	Application of Proceeds.....	16
10.	Expenses and Indemnity	17
11.	Delegation, appointment of agents and advisers.....	18
12.	Further Assurances.....	19
13.	Assignment and transfers by the Company.....	19
14.	Power of Attorney.....	20
15.	Continuing Security	20
16.	Covenant to pay	20
17.	Amendment and Waiver	20
18.	FATCA	20
19.	Release	20
20.	Severability	21
21.	Remedies and waivers.....	21
22.	Amendments to Transaction Documents	21
23.	Counterparts.....	21
24.	Governing Law	21
25.	Jurisdiction.....	21

THIS DEED is dated 1 October 2019 and made

BETWEEN:

- (1) **WITAN INVESTMENT TRUST PLC**, an investment trust incorporated under the laws of England and Wales with company number 101625, whose registered address is 14 Queen Anne's Gate, London SW1H 9AA (the **Company**); and
- (2) **PRUDENTIAL TRUSTEE COMPANY LIMITED**, a company incorporated under the laws of England and Wales with registered number 1863305, whose registered office is at 10 Fenchurch Avenue, London EC3M 5AG as security trustee for the holders of the Notes (the **Security Trustee**).

BACKGROUND:

- (A) The Company has entered into the Note Purchase Agreement (as defined below) and has agreed to issue the Notes (as defined below). The Company wishes to enter into this security trust deed to secure its obligations in respect of, *inter alia*, the Notes.
- (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.
- (C) The aggregate principal amount of the Notes shall be limited to £50,000,000.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Deed:

Act means the Law of Property Act 1925;

Appointee means any Receiver, attorney, manager, agent, delegate, nominee, custodian or other person duly appointed by the Security Trustee under this Deed;

Business Day means any day other than a Saturday, a Sunday or a day on which commercial banks in London, England are required or authorised to be closed;

Default has the meaning set out in the Note Purchase Agreement;

Event of Default has the meaning set out in the Note Purchase Agreement;

Existing 2015 Note Purchase Agreement means the Note Purchase Agreement dated 1 June 2015 between the Company and the Purchasers named therein relating to the Existing 2015 Secured Notes;

Existing 2015 Secured Notes means the outstanding £21,000,000 3.29 per cent. Series A Senior Secured Notes due 1 June 2035 and the £54,000,000 3.47 per cent Series B Senior Secured Notes due 1 June 2045 issued by the Company on 1 June 2015;

Existing 2017 Note Purchase Agreement means the Note Purchase Agreement dated 1 November 2017 between the Company and the Purchasers named therein relating to the Existing 2017 Secured Notes;

Existing 2017 Secured Notes means the outstanding £30,000,000 2.74% Senior Secured Notes due 1 November 2054 issued by the Company on 1 November 2017;

Existing Floating Charges has the meaning set out in Clause 2.2(b) of this Deed;

Existing Note Purchase Agreements means the Existing 2015 Note Purchase Agreement and the Existing 2017 Note Purchase Agreement;

Existing Secured Bank Debt means the debt incurred by the Company pursuant to the multicurrency revolving facilities agreement entered into by the Company and BNP Paribas, London Branch and BNP Paribas Securities Services, London Branch dated the 13th day of December 2010, as extended, amended and secured by the Existing Secured Bank Debt Floating Charge;

Existing Secured Bank Debt Floating Charge means the floating charge created under a security agreement dated the 13th day of December 2010 and a supplemental security deed dated 3 July 2014 entered into by the Company in favour of BNP Paribas, London Branch and BNP Paribas Securities Services, London Branch;

Existing Secured Bonds means the outstanding £64,290,000 6.125 per cent. Secured Bonds due 2025 of the Company;

Existing Secured Notes means the Existing 2015 Secured Notes and the Existing 2017 Secured Notes;

Existing Trust Deeds has the meaning set out in Clause 2.2(b) of this Deed;

holder with respect to any Note has the meaning set out in the Note Purchase Agreement;

Liability means any loss, damage, cost, fee, charge, claim, demand, expense, judgment, action, proceeding or other liability whatsoever (including, without limitation, in respect of taxes, duties, levies, imposts and other charges) and including any value added tax or similar tax charged or chargeable in respect thereof and legal fees and expenses on a full indemnity basis;

Note Purchase Agreement means the Note Purchase Agreement dated 1 October 2019 between the Company and the Purchasers named therein and relating to the Notes;

Notes means the £50,000,000 2.39 per cent. Senior Secured Notes due 1 October 2051 issued by the Company pursuant to the Note Purchase Agreement;

Party means a party to this Deed;

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

Required Holders has the meaning set out in the Note Purchase Agreement;

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 the

Company to (i) the holders of the Notes from time to time under the Transaction Documents and (ii) the Security Trustee under the Transaction Documents, 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 Assets means all assets of the Company the subject of any security created, or purported to be created by this Deed;

Security Interest means a mortgage, charge, pledge, lien, assignment by way of security, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

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

Transaction Documents means the Note Purchase Agreement, the Notes, this Deed and any other document entered into by the Company in connection with the Note Purchase Agreement;

Transaction Security means the Security Interests created or evidenced or expressed to be created or evidenced under or pursuant to this Deed; and

Trust Property means, collectively:

- (i) the security, powers, rights, titles, benefits and interests (both present and future) constituted by, and conferred on the Security Trustee under this Deed and any other Transaction Document;
- (ii) all obligations expressed to be undertaken by the Company to pay amounts in respect of the Secured Liabilities to the Security Trustee as trustee for the holders of the Notes and secured by the Transaction Security together with all representations and warranties expressed to be given by the Company in favour of the Security Trustee as trustee for the holders of the Notes;
- (iii) all assets paid or transferred to or vested in the Security Trustee or its agent or received or recovered by the Security Trustee or its agent from time to time in connection with this Deed or any other Transaction Document; and
- (iv) all rights, benefits, interests, entitlements, choses in action and other assets, actual or contingent, at any time representing or deriving from any of the foregoing, including all interest, income and other sums at any time received or receivable by the Security Trustee or its agent in respect of the same (or any part thereof),

but excluding the obligations of the Company contained in, and any amounts received under or receivable by the Security Trustee or any Appointee pursuant to, Clause 10 hereof.

1.2 Construction

- (a) References to the Holders, Security Trustee or the Company in whatever capacity include their respective successors, assigns, replacements, transferees and substitutes from time to time.
- (b) In this Deed, unless the contrary intention appears, a reference to:

- (i) an **amendment** includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and **amended** will be construed accordingly;
- (ii) **assets** includes present and future properties, revenues and rights of every description;
- (iii) **disposal** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
- (iv) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association or body (including a partnership, trust, fund, joint venture or consortium), or other entity (whether or not having separate legal personality);
- (v) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which persons to which it applies are generally accustomed to comply) of any governmental, inter-governmental or supranational body, agency or department, or of any regulatory, self-regulatory or other authority or organisation;
- (vi) **including** means including without limitation and **includes** and **included** shall be construed accordingly;
- (vii) **enforcing** (or any derivation) the Transaction Security shall include the exercise of any right arising under or in connection with the Transaction Security to appoint an administrator of the Company;
- (viii) a **notice** includes any notice, request, instruction, demand or other communication;
- (ix) a **payment** includes a distribution, prepayment or repayment and references to pay include distribute, repay or prepay;
- (x) an event of default, default or termination event (howsoever defined), or any failure to pay or to comply with any other obligation, is in each case **outstanding** or **continuing** if it has occurred and has not been remedied or waived;
- (xi) Clauses, Schedules, paragraphs and sub-paragraphs are to be construed as references to the clauses, paragraphs and sub-paragraphs of, and Schedules to, this Deed;
- (xii) a provision of law is a reference to that provision as amended and includes any subordinate legislation;
- (xiii) any action, remedy or method of proceeding for the enforcement of the rights of creditors shall be deemed to include, in respect of any jurisdiction other than England, references to such action, remedy or method of proceeding for the enforcement of the rights of creditors available or appropriate in such

jurisdiction as shall most nearly approximate to such action, remedy or method of proceeding described or referred to in these presents; and

- (xiv) a currency is a reference to the lawful currency for the time being of the relevant country.
- (c) The headings in this Deed do not affect its interpretation.
- (d) Any reference in this Deed to any Transaction Document or any other agreement or instrument includes (without prejudice to any prohibition on amendments) any amendment to such Transaction Document or other agreement or instrument.
- (e) The terms of the Note Purchase Agreement are incorporated in this Deed to the extent required to ensure that any purported disposition of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (f) If the Security Trustee considers that an amount paid to it under the Note Purchase Agreement, the Notes, this Deed or any other Transaction Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (g) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset.
- (h) This Deed confers benefits on each holder of a Note and is intended to be enforceable by each such holder by virtue of the Contracts (Rights of Third Parties) Act 1999. Subject to the preceding sentence, a person that is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

2. CREATION OF SECURITY

2.1 General

- (a) All the security created under this Deed:
 - (i) is created in favour of the Security Trustee;
 - (ii) is created over present and future assets of the Company;
 - (iii) is security for the payment of all the Secured Liabilities; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) The Security Trustee declares that it holds the Trust Property on trust for itself and the holders of the Notes in accordance with its and their respective interests.
- (c) If the rights of the Company under a document cannot be secured without the consent of a party to that document:
 - (i) the Company must notify the Security Trustee promptly;

- (ii) the Transaction Security will secure all amounts which the Company may receive, or has received, under that document but exclude the document itself; and
 - (iii) unless the Security Trustee otherwise requires, the Company must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under this Deed.
- (d) (i) Subject to paragraph (ii) below and notwithstanding any other provision of this Deed or any other Transaction Document, the Security Trustee will not, and will not be bound to, take any steps, institute any proceedings, exercise its rights and/or to take any other action under or in connection with any of the Transaction Documents (including enforcing the Transaction Security) unless the Security Trustee is directed to do so in writing by the Required Holders provided that the Security Trustee may at all times, whether or not so directed, take such action in respect of any right, power or discretion which is personal to the Security Trustee or is to preserve or protect the Security Trustee's position or is of a purely administrative nature.
- (ii) Upon being directed in accordance with paragraph (i) above, the Security Trustee will be bound to take the relevant action(s) in the manner instructed in writing by the Required Holders provided that (A) the Security Trustee has been indemnified and/or secured and/or prefunded to its satisfaction against all Liabilities to which it may render itself liable or which it may incur by so doing, and (B) in the case of any direction to modify the terms of this Deed or any other Transaction Document to which it is a party, the Security Trustee shall not be required to make such modification if, in the sole opinion of the Security Trustee, making such modification would impose new or additional obligations on, release the rights or protections of, or alter the obligations, rights and/or protections of, the Security Trustee under this Deed, any other Transaction Document or otherwise.
- (iii) The Security Trustee shall not be liable to the Company or any other person for any action it may take or may refrain from taking in accordance with any instructions received pursuant to this Clause or any Transaction Document or for any delay or failure on the part of the Required Holders to so direct the Security Trustee. The Security Trustee shall be entitled to seek clarification from the Required Holders with regard to such instructions and may in its discretion elect not to act pending receipt of such clarification to its satisfaction from the Required Holders and the Security Trustee shall not be liable for any Liabilities incurred by any person as a result of such election. In the absence of express notice to the contrary the Security Trustee is entitled to assume that any instructions received from the Required Holders have not been revoked. In the absence of instructions from the Required Holders the Security Trustee shall be entitled to seek such instruction as it thinks necessary or appropriate.

2.2 Floating charge

- (a) The Company charges by way of a first floating charge all its undertaking, property and assets.
- (b) The floating charge created by this Clause shall at all times, notwithstanding any conversion of the floating charge created by this Clause into a fixed charge pursuant

to sub-clause (c) or (e) below, rank *pari passu* in point of security with the first floating charges (together, the **Existing Floating Charges**) securing:

- (i) the Existing Secured Bonds created under the trust deed dated 15 December 2000 made between the Company and the Prudential Trustee Company Limited;
- (ii) the Existing 2015 Secured Notes created under the security trust deed dated 1 June 2015 made between the Company and the Prudential Trustee Company Limited; and
- (iii) Existing 2017 Secured Notes created under the security trust deed date 1 November 2017 made between the Company and the Prudential Trustee Company Limited,

(together, the **Existing Trust Deeds**).

- (c) Except as provided below, the Security Trustee may, by notice to the Company convert the floating charge created by this Clause into a fixed charge as regards any of the Company's assets specified in that notice, if:
 - (i) an Event of Default is continuing; or
 - (ii) those assets are in danger of being seized or sold under any form of distress, attachment, execution or other legal process or are otherwise in jeopardy.
- (d) The floating charge created by this Clause may not be converted into a fixed charge solely by reason of:
 - (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium,under section 1A of the Insolvency Act 1986.
- (e) The floating charge created by this Clause will automatically convert into a fixed charge over all of the Company's assets if:
 - (i) any administrator, liquidator, administrative receiver, receiver and manager or a receiver with respect to the Company is appointed or the Security Trustee receives notice of an intention to appoint any such person; or
 - (ii) the Notes or any of them become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Note Purchase Agreement; or
 - (iii) the Existing Secured Bonds or any of them are/is declared to be or otherwise become(s) due and payable prior to their/its respective originally scheduled maturity date(s); or
 - (iv) the Existing 2015 Secured Notes or any of them become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Existing 2015 Note Purchase Agreement; or

- (v) the Existing 2017 Secured Notes or any of them become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Existing 2017 Note Purchase Agreement; or
 - (vi) any of the Existing Floating Charges or the Existing Secured Bank Debt Floating Charge are/is converted into a fixed charge over any or all of the Company's assets; or
 - (vii) the Company takes any formal steps to create any Security Interest in breach of Section 10.3 (*Liens*) of the Note Purchase Agreement over any of the Security Assets; or
 - (viii) any person levies any distress, execution, sequestration, attachment or other process against any of the Security Assets.
- (f) The floating charge created by this Clause is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

3. REPRESENTATIONS - GENERAL

3.1 Nature of security

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

3.2 Times for making representations

The representations and warranties set out in this Deed (including in this Clause) are made on the date of this Deed.

4. RESTRICTIONS ON DEALINGS

The Company may only:

- (a) create or permit to subsist any Security Interest on any Security Asset; and/ or
- (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset,

to the extent not expressly prohibited under the Note Purchase Agreement.

5. WHEN TRANSACTION SECURITY BECOMES ENFORCEABLE

5.1 Event of Default

The Transaction Security will become immediately enforceable:

- (a) if the Notes, or any of them, become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Note Purchase Agreement. Thereafter the Transaction Security will, without prejudice to any subsequent acceleration pursuant to Section 12.1 (*Acceleration*) of the Note Purchase Agreement, cease to be enforceable upon the rescission and annulment (pursuant to and in accordance with Section 12.3 (*Rescission*) of the Note Purchase Agreement) of any declaration pursuant to Section 12.1(b) or 12.1(c) thereof; or

- (b) on the scheduled maturity date of the Notes if the Notes are not repaid in full together with all other amounts outstanding under the Transaction Documents; provided that such failure shall not give rise to the Transaction Security becoming immediately enforceable if it occurs solely from any technical or administrative difficulties relating solely to the transfer of such amount and such failure is remedied within five Business Days after the due date for payment; or
- (c) if the Existing Secured Bonds or any of them are/is declared to be or otherwise become(s) due and payable prior to their respective originally scheduled maturity dates; or
- (d) if the Existing 2015 Secured Notes, or any of them, become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Existing 2015 Note Purchase Agreement. Thereafter the Transaction Security will, without prejudice to any subsequent acceleration pursuant to Section 12.1 (*Acceleration*) of the Existing 2015 Note Purchase Agreement, cease to be enforceable upon the rescission and annulment (pursuant to and in accordance with Section 12.3 (*Rescission*) of the Existing 2015 Note Purchase Agreement) of any declaration pursuant to Section 12.1(b) or 12.1(c) thereof; or
- (e) if the Existing 2017 Secured Notes, or any of them, become immediately due and repayable pursuant to Section 12.1 (*Acceleration*) of the Existing 2017 Note Purchase Agreement. Thereafter the Transaction Security will, without prejudice to any subsequent acceleration pursuant to Section 12.1 (*Acceleration*) of the Existing 2017 Note Purchase Agreement, cease to be enforceable upon the rescission and annulment (pursuant to and in accordance with Section 12.3 (*Rescission*) of the Existing 2017 Note Purchase Agreement) of any declaration pursuant to Section 12.1(b) or 12.1(c) thereof; or
- (f) on the scheduled maturity date of the Existing Secured Bonds, if the Existing Secured Bonds are not repaid in full on that date (as applicable) or within any applicable grace period; or
- (g) on the scheduled maturity date of the Existing 2015 Secured Notes if the Existing 2015 Secured Notes are not repaid in full together with all other amounts outstanding under the Existing 2015 Note Purchase Agreement on that date (as applicable) or within any applicable grace period; or
- (h) on the scheduled maturity date of the Existing 2017 Secured Notes if the Existing 2017 Secured Notes are not repaid in full together with all other amounts outstanding under the Existing 2017 Note Purchase Agreement on that date (as applicable) or within any applicable grace period.

5.2 Discretion

After the Transaction Security has become enforceable, the Security Trustee may, subject to Clause 2.1(d) (*General*) enforce all or any part of the Transaction Security in any manner it sees fit.

5.3 Power of sale

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 the Transaction Security has become enforceable.

6. ENFORCEMENT OF TRANSACTION SECURITY

6.1 General

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and Section 93 of the Act (restricting the right of consolidation) do not apply to the Transaction Security.

6.2 No liability as mortgagee in possession

Neither the Security Trustee 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.

6.3 Privileges

Each Receiver and the Security Trustee 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.

6.4 Protection of third parties

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

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

6.5 Redemption of prior mortgages

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

6.6 Contingencies

If the Transaction Security is enforced at a time when no amount is due under the Note Purchase Agreement or the Notes or any other Transaction Document but at a time when amounts may or will become due, the Security Trustee (or the Receiver) may pay an appropriate amount (in the sole opinion of the Security Trustee or the Receiver, as the case may be) of the proceeds of any recoveries effected by it into a suspense account, with the balance to be paid promptly to the Company.

6.7 Powers supplemental

The rights, powers and discretions conferred upon the Security Trustee by this Deed shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Trustee by general law or otherwise.

6.8 Disapplication

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Deed. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Deed, the provisions of this Deed, shall to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of that Act.

7. RECEIVER

7.1 Appointment of Receiver

- (a) Except as provided below, the Security Trustee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
 - (i) the Transaction Security has become enforceable; or
 - (ii) the Company so requests the Security Trustee in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986.
- (e) The Security Trustee may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Trustee 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.

7.2 Removal

The Security Trustee 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.

7.3 Remuneration

The Security Trustee 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.

7.4 Agent of the Company

- (a) A Receiver will be deemed to be the agent of the Company 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 Company alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.
- (b) The Security Trustee will not incur any liability (either to the Company or to any other person) by reason of the appointment of a Receiver or for any other reason.

7.5 Relationship with Security Trustee

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 the Transaction Security becomes enforceable be exercised by the Security Trustee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

8. POWERS OF RECEIVER

8.1 General

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

8.2 Possession

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

8.3 Carry on business

A Receiver may carry on any business of the Company in any manner he thinks fit.

8.4 Employees

- (a) 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 thinks fit.
- (b) A Receiver may discharge any person appointed by the Company.

8.5 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 thinks fit.

8.6 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.
- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Company.

8.7 Leases

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

8.8 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 Company or relating in any way to any Security Asset.

8.9 Legal actions

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

8.10 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.

8.11 Subsidiaries

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

8.12 Delegation

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

8.13 Lending

A Receiver may lend money or advance credit to any customer of the Company.

8.14 Protection of assets

A Receiver may:

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

in each case as he thinks fit.

8.15 Other powers

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary 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 would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and
- (c) use the name of the Company for any of the above purposes.

9. APPLICATION OF PROCEEDS

Any moneys received by the Security Trustee or any Receiver after the Transaction Security has become enforceable must be applied in the following order of priority (subject to any prior or *pari passu* ranking claim thereon):

- (a) in or towards payment of or provision for all Liabilities incurred by the Security Trustee or any Appointee under or in connection with this Deed and the other Transaction Documents and of all remuneration due to the Security Trustee or any Appointee under or in connection with this Deed;
- (b) in or towards the *pro rata* payment of, or provision for, the Secured Liabilities; and
- (c) in payment of the surplus (if any) to the Company or other person entitled to it.

This Clause does not prejudice the right of the Security Trustee to recover any shortfall from the Company. All payments to the holders of the Notes to be made by the Security Trustee or any Receiver pursuant to this Clause 9 may be made in the manner set out in Section 15 (*Payments on Notes*) of the Note Purchase Agreement. The Security Trustee may, at the

expense of the Company, appoint an agent, upon such terms as the Security Trustee shall consider appropriate, to make such payments and shall incur no liability by reason thereof. Any such payment shall be a good discharge to the Security Trustee or such Receiver.

10. EXPENSES AND INDEMNITY

- (a) The Company shall pay to the Security Trustee remuneration for its services as security trustee as from the date of this Deed, such remuneration to be at such rate as may from time to time be agreed between the Company and the Security Trustee. Such remuneration shall accrue from day to day and be payable (in priority to payments to the holders of the Notes) up to and including the end of the Security Period.
- (b) If an Event of Default has occurred and the Security Trustee has taken or is taking steps to protect the security created under this Deed the Company hereby agrees that the Security Trustee shall be entitled to be paid additional remuneration, which may be calculated at its normal hourly rates in force from time to time. In any other case, if the Security Trustee considers it expedient or necessary or is requested by the Company to undertake duties which the Security Trustee and the Company agree to be of an exceptional nature or otherwise outside the scope of the normal duties of the Security Trustee under these presents or any other Transaction Document, the Company shall pay to the Security Trustee such additional remuneration as shall be determined by the Security Trustee as being a fair reflection of those additional duties (and which may be calculated by reference to the Security Trustee's normal hourly rates in force from time to time). For the avoidance of doubt, any duties in connection with the Trust Property, the granting of consents or waivers, concurring in modifications, or enforcement, or during the period post enforcement shall be deemed to be of an exceptional nature.
- (c) The Company shall in addition pay to the Security Trustee an amount equal to the amount of any value added tax or similar tax chargeable in respect of its remuneration under this Deed or any other Transaction Document properly payable by the Security Trustee or a member of its group.
- (d) Without prejudice to the right of indemnity by law given to trustees, the Company shall indemnify the Security Trustee and every Appointee and keep it or him indemnified against all Liabilities to which it or he may be or become subject or which may be incurred by it or him in the preparation and execution or purported execution of any of its or his trusts, powers, authorities and discretions under this Deed or any other Transaction Document or its or his functions under any such appointment or in respect of any other matter or thing done or omitted in any way relating to this Deed or the other Transaction Documents or any such appointment (including all Liabilities incurred in disputing or defending any of the foregoing).
- (e) The Company shall also pay or discharge all Liabilities incurred by the Security Trustee and/or any Appointee in relation to the preparation and execution of, the exercise of its powers and the performance of its duties under, and in any other manner relating to, this Deed or the other Transaction Documents, including reasonable travelling expenses and any stamp, issue, registration, documentary and other taxes or duties paid or payable by the Security Trustee and/or any Appointee in connection with any action taken or contemplated by or on behalf of the Security Trustee and/or any Appointee for enforcing this Deed or the Transaction Security and/or any other Transaction Document.

- (f) All amounts payable pursuant to (d) and (e) above shall be payable by the Company on the date specified in a demand by the Security Trustee and in the case of payments actually made by the Security Trustee prior to such demand shall carry interest at a rate equal to the Security Trustee's cost of borrowing from the date such demand is made, and in all other cases shall (if not paid within 30 days after the date of such demand or, if such demand specifies that payment is to be made on an earlier date, on such earlier date) carry interest at such rate from such thirtieth day of such other date specified in such demand. All remuneration payable to the Security Trustee shall carry interest at such rate from the due date therefor.
- (g) The Company hereby further undertakes to the Security Trustee that all monies payable by the Company to the Security Trustee under this clause shall be made without set-off, counterclaim, deduction or withholding unless compelled by law in which event the Company will pay such additional amounts as will result in the receipt by the Security Trustee of the amounts which would otherwise have been payable by the Company to the Security Trustee under this clause in the absence of any such set-off, counterclaim, deduction or withholding.
- (h) Unless otherwise specifically stated in any discharge of this Deed, the provisions of this Clause 10 shall continue in full force and effect notwithstanding such discharge.

11. DELEGATION, APPOINTMENT OF AGENTS AND ADVISERS

11.1 Delegates

The Security Trustee or any Receiver 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 or the other Transaction Documents. Such delegation may be made upon such terms (including power to sub-delegate) and subject to such conditions and regulations as the Security Trustee may, acting in the interests of the holders of the Notes, think fit. The Security Trustee shall not be under any obligation to supervise the proceedings or acts of any such delegate or sub-delegate or be in any way responsible for any Liability incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate provided that the Security Trustee has exercised reasonable care in appointing such person.

11.2 Agents

The Security Trustee or any Receiver may in the conduct of the trusts of this Deed instead of acting personally employ and pay an agent (whether being a lawyer or other professional person) to transact or conduct, or concur in transacting or conducting, any business and to do, or concur in doing, all acts required to be done in connection with these presents (including the receipt and payment of money). Such appointment may be made upon such terms and subject to such conditions and regulations as the Security Trustee may, acting in the interests of the holders of the Notes, think fit. The Security Trustee shall not be in any way responsible for any Liability incurred by reason of any misconduct or default on the part of any such agent or be bound to supervise the proceedings or acts of any such agent provided that the Security Trustee has exercised reasonable care in appointing such person.

11.3 Advice

The Security Trustee may, at the expense of the Company, in relation to the performance of its obligations under this Deed or any other Transaction Document obtain the advice or opinion of or any information (whether addressed to the Security Trustee or not) from any lawyer, valuer, accountant, surveyor, banker, broker, auctioneer or other expert whether

obtained by the Company, the Security Trustee or otherwise and shall not be responsible for any Liability occasioned by so acting.

11.4 Resignation of the Security Trustee

The Security Trustee may retire at any time on giving not less than 30 days' prior written notice to the Company (who shall promptly notify each holder of a Note of the same) without giving any reason and without being responsible for any Liabilities incurred by reason of such retirement. The Required Holders may by written demand remove the Security Trustee. The Company undertakes that it will use all reasonable endeavours to procure that a new security trustee is appointed as soon as reasonably practicable. The retirement or removal of the Security Trustee shall not become effective until a successor security trustee is appointed. If, in such circumstances, no appointment of such a new security trustee has become effective within 30 days of the date of such notice or written demand of the Required Holders, the Security Trustee shall be entitled to appoint a replacement security trustee.

Upon the appointment of such a replacement security trustee, the retiring Security Trustee shall be discharged from any further obligations in respect of the Transaction Documents provided that:

- (a) the replacement security trustee accedes and agrees to be bound by the provisions of the deed of postponement dated 1 November 2017 between amongst others, the Company and the Security Trustee; and
- (b) the retiring Security Trustee takes all reasonable steps to transfer its interests in the Transaction Security and Security Assets (at the cost of the Company) to the replacement security trustee upon the appointment of the replacement security trustee.

12. FURTHER ASSURANCES

The Company must, at its own expense, take whatever action the Security Trustee or a Receiver may require for:

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

This includes:

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

which, in any such case, the Security Trustee may think expedient.

13. ASSIGNMENT AND TRANSFERS BY THE COMPANY

The Company may not assign any of its rights or transfer any of its rights or obligations under this Deed.

14. POWER OF ATTORNEY

The Company, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of its delegates or sub-delegates or agents to be its attorney to take any action which the Company is obliged to take under this Deed. The Company ratifies and confirms, and irrevocably agrees to ratify and confirm, whatever any attorney does or purports to do under its appointment under this Clause.

15. CONTINUING SECURITY

The security constituted by this Deed shall be continuing and shall not be considered as satisfied or discharged by any intermediate payment or settlement of the whole or any part of the Secured Liabilities and shall be binding until all the Secured Liabilities have been discharged in full to the satisfaction of the Security Trustee and all of the holders of the Notes have ceased to have any obligation whether actual or contingent to make any credit or accommodation available to the Company.

16. COVENANT TO PAY

The Company shall pay or discharge the Secured Liabilities when due in the manner provided for in the Transaction Documents.

17. AMENDMENT AND WAIVER

Subject to the provisions of Clause 18 of the Note Purchase Agreement, any term of this Deed may be amended or waived by the Security Trustee only with the consent of the Required Holders and the Company and any such amendment or waiver will be binding on all the Parties and the holders.

18. FATCA

18.1 Company information

The Company hereby covenants with the Security Trustee that it will provide the Security Trustee with sufficient information so as to enable the Security Trustee to determine whether or not the Security Trustee is obliged, in respect of any payments to be made by it pursuant to the Transaction Documents, to make any withholding or deduction pursuant to an agreement described in Section 1471(b) of the US Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code and any regulations or agreements thereunder or official interpretations thereof (**FATCA Withholding Tax**).

18.2 Entitlement to withhold

The Security Trustee shall be entitled to deduct FATCA Withholding Tax, and shall have no obligation to gross-up any payment hereunder or to pay any additional amount as a result of such FATCA Withholding Tax.

19. RELEASE

At the end of the Security Period, the Security Trustee must, at the request and cost of the Company, take whatever action is necessary to release the Security Assets from the Transaction Security.

20. SEVERABILITY

Any provision of this Deed that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

21. REMEDIES AND WAIVERS

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

22. AMENDMENTS TO TRANSACTION DOCUMENTS

This Deed shall remain in full force and effect notwithstanding any amendments or variations from time to time of the Transaction Documents and all references to the Transaction Documents herein shall be taken as referring to the Transaction Documents as amended or varied from time to time (including any increase in the amount of the Secured Liabilities).

23. COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

24. GOVERNING LAW

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

25. JURISDICTION

- 25.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including any dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Debenture) (a **Dispute**).
- 25.2 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.
- 25.3 This Clause 25 is for the benefit of the Security Trustee and the holders of the Notes from time to time only. As a result, neither the Security Trustee nor any holder of a Note shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee and the holders of the Notes from time to time (or any of them) may take concurrent proceedings in any number of jurisdictions.

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

SIGNATORIES

Company

EXECUTED and DELIVERED as a DEED by)
WITAN INVESTMENT TRUST PLC)
acting by:

Director

Andrew Bell

Secretary:

Deana Gammie
for FROSTROW CAPITAL LLP

Security Trustee

EXECUTED as a DEED)
by affixing **THE COMMON SEAL of**)
PRUDENTIAL TRUSTEE COMPANY LIMITED)
in the presence of:)

Sealing Officer:

SIGNATORIES

Company
EXECUTED and DELIVERED as a DEED by)
WITAN INVESTMENT TRUST PLC)
acting by:

Director

Secretary:

Security Trustee
EXECUTED as a DEED)
by affixing **THE COMMON SEAL of**)
PRUDENTIAL TRUSTEE COMPANY LIMITED)
in the presence of:)

Sealing Officer:


AA Petrou

