



**Registration of a Charge**

Company name: **WESTWAY HOLDINGS LIMITED**

Company number: **09761309**

Received for Electronic Filing: **03/11/2016**



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**Details of Charge**

Date of creation: **14/10/2016**

Charge code: **0976 1309 0001**

Persons entitled: **MORE GROUP CAPITAL SERVICES LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **DAVID STANLEY**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 9761309

Charge code: 0976 1309 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th October 2016 and created by WESTWAY HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd November 2016 .

Given at Companies House, Cardiff on 4th November 2016

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**

14th October 2016

**SECURITY TRUST DEED**

between

**MORE GROUP CAPITAL SERVICES LIMITED**  
as Security Trustee

**WESTWAY HOLDINGS LIMITED**  
as Company

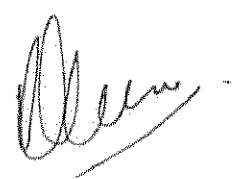
and others

I certify this document is a  
true copy of the original



DNC STANLEY FCA

24 October 2016



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THIS DEED is dated 14th October 2016

**PARTIES**

- (1) **WESTWAY HOLDINGS LIMITED** incorporated and registered in England and Wales with company number 9761309 whose registered office is at Crown House, 151 High Road, Loughton, Essex, IG10 4LG (the **Company**).
- (2) **MORE GROUP CAPITAL SERVICES LIMITED** incorporated and registered in England and Wales with company number 08341972 whose registered office is at 5<sup>th</sup> Floor, 52-54 Gracechurch Street, London EC3V 0EH (the **Security Trustee** which expression includes any additional or successor security trustee, as applicable, appointed pursuant to and in accordance with the terms of this Deed).
- (3) Each Bondholder acceding to this document from time to time.

**Recitals:**

- (A) The Company intends to issue Bonds on the terms and subject to the conditions set out in the Bond Instrument and the Application Form.
- (B) One of the terms of the Bonds is that they will be secured by a fixed and floating Charge.
- (C) The Security Trustee has agreed to hold the benefit of the first fixed and floating charge.
- (D) The Security Trustee holds the Transaction Security on trust for itself and the other Secured Parties on the terms of this Deed.

It is agreed as follows:

**1. Definitions and Interpretation**

**1.1 Definitions**

In this Deed the following terms have the meanings given to them in this Clause 1.1.

**Affiliate:** with respect to any person, any Subsidiary of such person, or holding company of such person or any other Subsidiary of that holding company.

**Application Form:** in respect of any purchaser of Bonds, the application form received by such purchaser applying to acquire such Bonds, in a form acceptable to the Company.

**Bond:** any bond issued by the Company and constituted by the Bond Instrument.

**Bondholder:** a holder of one or more Bonds.

**Bond Instrument:** the bond instrument dated on or about the date hereof executed by the Company and constituting up to £10,000,000.00 of fixed rate secured bonds subject to the terms set out therein.

**Delegate:** any delegate, agent or attorney appointed by the Security Trustee pursuant to and in accordance with the terms of this Deed.

**Discharge Date:** the date on which all the Secured Liabilities have been fully discharged.

**Fixed and Floating Charge:** the first fixed and floating charge, dated on or about the date hereof, granted by the Company in favour of the Security Trustee (as security trustee for itself and the Bondholders) over the shares held by the Company in Westway Holdings Limited.

**Instructions:** the instructions of holders of more than half of the outstanding principal amount of the Bonds.

**Party:** means a party to this Deed.

**Receiver:** means a receiver and manager or any other receiver (whether appointed pursuant to this Deed or any statute, by a court or otherwise) of all or any of the Trust Property and shall, where permitted by law, include an administrative receiver.

**Secured Liabilities:** all present and future monies, obligations and liabilities owed by the Company to any Secured Party under or in respect of the Transaction Documents, in each case, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever, together with all interest accruing on such monies and liabilities.

**Secured Assets:** all the assets, property and undertaking for the time being subject to any Security created by this deed or any other Transaction Document.

**Secured Parties:** collectively the Security Trustee and each Bondholders and any permitted assignee or permitted transferee of a Bond.

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Subsidiary:** means a subsidiary within the meaning of Section 1159 of the Companies Act 2006.

**Transaction Documents:** this Deed, the Fixed and Floating Charge, Bond Instrument, each Bond and any other document constituting Transaction Security.

**Transaction Security:** the security created pursuant to the Fixed and Floating Charge and any other security granted by the Company or any other entity to the Security Trustee whether now or in the future in respect of the Secured Liabilities.

**Trust Property:** means all rights, interests, benefits and other property comprised in the Transaction Security and the proceeds thereof including without limitation:

- (a) any rights, interests or other property and the proceeds thereof from time to time assigned, transferred, mortgaged, charged, or pledged to or otherwise vested in the Security Trustee under, pursuant to or in connection with this Deed or any other Transaction Document;
- (b) any representation, obligation, covenant, warranty or other contractual provision in favour of the Security Trustee (other than any made or granted solely for its own benefit) made or granted in or pursuant to any of the Transaction Documents to which the Security Trustee is a party;
- (c) any sum which is received or recovered by the Security Trustee under, pursuant to or in connection with any of the Transaction Documents or the exercise of any of the Security Trustee's powers under or in connection therewith (other than any sum received or recovered solely for its own account) and which is held by the Security Trustee upon trust on the terms of this Deed or any Transaction Document to which the Security Trustee is a party; and

- (d) all income and other sums at any time received or receivable by the Security Trustee in respect of the other Trust Property or any part thereof.

**Trustee Acts:** means the Trustee Act 1925 and the Trustee Act 2000.

**1.2 Defined Terms**

Unless this Deed provides otherwise, a term which is defined (or expressed to be subject to a particular construction) in the Bond Instrument shall have the same meaning (or be subject to the same construction) in this Deed.

**1.3 References to Agreements**

Unless otherwise stated, any reference in this Deed to any agreement or document (including any reference to this Deed or any other Finance Document or to any agreement or document entered into pursuant to or in accordance with such agreement or document) shall be construed as a reference to:

- (a) such agreement or document as amended, restated, varied, novated or supplemented from time to time; and
- (b) any agreement or document whereby such agreement or document is so amended, restated, varied, novated or supplemented or which is entered into pursuant to or in accordance with such agreement or document.

**1.4 Certificates**

A certificate of any Secured Party as to the amount of any Secured Liability owed to it shall be *prima facie* evidence of the existence and amount of such Secured Liability.

**1.5 Statutes**

Any reference in this Deed to a statute or statutory provision shall, unless the contrary is indicated, be construed as a reference to such statute or statutory provision as the same shall have been or may be amended or re-enacted.

**1.6 Third Party Rights**

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a party is not required to vary, rescind or terminate this Deed at any time.

**1.7 Clause and Schedule Headings**

- (a) Unless otherwise stated, any reference in this Deed to a Clause or a Schedule shall be construed as a reference to a clause or a schedule to this Deed.
- (b) Clause and Schedule headings are for ease of reference only and shall not affect the construction of this Deed.

**1.8 VAT**

Any reference in this Deed to an amount shall, unless the context otherwise permits, be exclusive of any VAT or analogous duty or tax. To the extent that any VAT or analogous

duty or tax is required to be paid, the liability of any Party so to pay shall be subject to the receipt by such Party of a VAT invoice in respect of the same.

## **2. Appointment of the Security Trustee**

- (a) Each of the Bondholders appoints the Security Trustee to act as agent for the Bondholder under and in connection with the Transaction Documents and to do all things required under the Transaction Documents.
- (b) Each Bondholder authorises the Security Trustee to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to it under or in connection with the Transaction Documents together with any other incidental rights, powers, authorities and discretions.

## **3. Trustee for the Secured Parties**

### **3.1 Declaration of Trust**

To the extent the Trust Property is not transferred, charged or granted to the Security Trustee on trust pursuant to the Transaction Documents, the Security Trustee declares itself trustee of the Trust Property to hold the same on trust for the Secured Parties for the purpose of securing the Secured Liabilities on the terms and subject to the conditions set out in this Deed.

### **3.2 Non-Trust Jurisdictions**

It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trusts expressed to be created by this Deed, the relationship of the Secured Parties to the Security Trustee shall be construed as one of principal and agent but, to the extent permissible under the laws of such jurisdiction, all the other provisions of this Deed shall have full force and effect between the Parties.

## **4. Enforcement**

### **4.1 Enforcement Sale upon an Event of Default**

- (a) Upon the occurrence of an Event of Default, the Security Trustee acting on Instructions may take whatever action necessary in accordance with the terms of the Transaction Documents, in its sole discretion, to protect its rights, and the rights of the Bondholders under the Transaction Documents, including without limitation, to sell or transfer, at public auction, private sale or otherwise, any or all of the collateral secured by the Transaction Security on such terms and conditions as the Security Trustee may elect or deem fit and appropriate.
- (b) The Security Trustee shall apply all moneys received by it in connection with any enforcement action on the collateral secured by the Transaction Security to pay all amounts due under the Bonds and the Transaction Documents pro rata, subject to applicable law.

### **4.2 Permitted Deductions**

The Security Trustee shall be entitled to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed, and to pay all taxes which may be assessed against it in



respect of any of the Secured Assets, or as a consequence of performing its duties, or by virtue of its acting in its capacity as Security Trustee under any of the Transaction Documents or otherwise (other than in connection with its remuneration for performing its duties under this Deed).

#### **4.3 Clawback**

- (a) If any Bondholder receives an amount as a result of the enforcement of the Transaction Security and the Security Trustee is subsequently required to pay an amount equal to that amount (a "**Clawback Amount**") to a liquidator (or any other party) whether pursuant to a court order or otherwise such Bondholder will promptly on the request of the Security Trustee pay an amount equal to such Clawback Amount to the Security Trustee for payment to the liquidator (or such other party).
- (b) Each Bondholder that has received a Clawback Amount shall indemnify the Security Trustee against any and all costs, claims, losses, expenses (including legal fees) and liabilities together with any VAT thereon which the Security Trustee may incur with respect to that Clawback Amount otherwise than by reason of the Security Trustee's own gross negligence or willful misconduct.

#### **5. Secured Parties' Undertakings**

Each Secured Party gives the undertakings set out in this Clause 5 to each of the other Secured Parties and acknowledges that the Security Trustee has entered into this Deed in reliance on those undertakings.

##### **5.1 Secured Parties' Information**

The Secured Parties shall furnish to the Security Trustee such information as the Security Trustee may reasonably specify as being necessary or desirable to enable the Security Trustee to perform its functions as trustee.

##### **5.2 Independent Power**

The Security Trustee alone, to the exclusion of the Secured Parties, shall have power to enforce or have recourse to the Transaction Security and to exercise its rights and powers pursuant to the Transaction Security.

##### **5.3 Indemnity to the Security Trustee**

The Secured Parties, jointly and severally, indemnify the Security Trustee, their directors, officers, employees, agents and Affiliates, within three Business Days of demand, against any cost, loss or liability incurred by the Security Trustee (otherwise than by reason of the Security Trustee's gross negligence or willful misconduct) in acting as Security Trustee under the Transaction Documents (unless the Security Trustee has been reimbursed by the Company pursuant to a Transaction Document).

##### **5.4 Assignments and Transfers**

Each Secured Party agrees with the Security Trustee that it shall not assign or transfer any of its rights, benefits and/or obligations under the Bonds unless (i) in doing so it has complied with the terms of the Bond Instrument; and (ii) the person to whom such assignment or transfer is made shall have acceded to this Deed by the delivery to the Security Trustee of a duly completed deed of adherence to this Deed in a form reasonably acceptable to the

Security Trustee so as to ensure that such person shall be bound by the terms and conditions of this Deed as a Secured Party.

**6. The Company's Undertakings**

**6.1 Company's Indemnity to the Security Trustee**

The Company shall indemnify and hold harmless the Security Trustee, its directors, officers, employees, agents and Affiliates, and every Receiver and Delegate ("indemnified parties") on demand from and against any and all costs, claims, losses, expenses (including legal fees) and liabilities (together with any applicable VAT), incurred by any of them in relation to or arising out of:

- (a) the preservation, exercise or enforcement of the Transaction Security;
- (b) the exercise of any of the rights, powers, discretions and remedies vested in any of the indemnified parties by the Transaction Documents or by law;
- (c) any default by the Company in the performance of any of the obligations expressed to be assumed by it in the Transaction Documents; or
- (d) any action undertaken by the Security Trustee and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Transaction Security,

except to the extent that any such costs, claims, losses, expenses and liabilities result from the gross negligence, willful default or fraud of the Security Trustee.

The Security Trustee may, in priority to any payment to the Secured Parties and on its own behalf or on behalf of the other indemnified parties, indemnify itself or such other indemnified parties out of the Trust Property and shall have a lien on the Trust Property for all moneys payable under this Clause 6.1.

**6.2 Counter Indemnity**

To the extent that a Secured Party is required to indemnify the Security Trustee pursuant to Clause 5.3 (*Indemnity to the Security Trustee*) as a result of any action which the Company is required to take but does not, the Company agrees to indemnify each such Secured Party on demand against any amount it has paid to the Security Trustee pursuant to Clause 5.3 (*Indemnity to the Security Trustee*).

**6.3 Sums Received by the Company**

If the Company receives any sum which, pursuant to any of the Transaction Documents, should have been paid to the Security Trustee, that sum shall be held by the Company for and to the order of the Secured Parties and shall as soon as practicable be paid to the Security Trustee for application in accordance with Clause 4.1.

**7. Trustee's and Security Trustee's Rights and Duties**

**7.1 Powers and Remuneration**

- (a) The Security Trustee shall have such rights, powers, authorities and discretions as are (i) conferred on trustees by the Trustee Acts and (ii) by way of supplement to the Trustee Acts as provided for in this Deed and the Transaction Documents.

- (b) Between itself and the other Parties, the Security Trustee shall have full power to determine all questions and doubts arising in relation to any of the provisions of this Deed or any Transaction Document and any such determination shall in the absence of manifest error, be conclusive and shall bind the Security Trustee and the other Parties.
- (c) The Security Trustee shall be entitled to such remuneration as each may from time to time agree with the Company.

## 7.2 Instructions

- (a) The Security Trustee shall:
  - (i) unless a contrary indication appears in a Transaction Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Security Trustee in accordance with any Instructions given to it;
  - (ii) act on any Instructions promptly; and
  - (iii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Security Trustee shall be entitled to request Instructions, or clarification of any Instructions given, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Trustee may refrain from acting unless and until it receives those Instructions or that clarification.
- (c) Paragraph (a) above shall not apply:
  - (i) where a contrary indication appears in this Deed;
  - (ii) where this Deed requires the Security Trustee to act in a specified manner or to take a specified action;
  - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Bondholders.
- (d) The Security Trustee may refrain from acting in accordance with any Instructions until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Transaction Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those Instructions.
- (e) In the absence of Instructions, the Security Trustee may act (or refrain from acting) as it considers to be in the best interest of the Bondholders, generally.
- (f) The Security Trustee is not authorised to act on behalf of the Bondholders (without first obtaining the Bondholders' consent) in any legal or arbitration proceedings relating to any Transaction Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Fixed Charge or enforcement of the Transaction Security or the Fixed Charge.

### 7.3 Action to Protect or Enforce Transaction Security

Subject to the provisions of this Clause 7:

- (a) the Security Trustee may, in the absence of any Instructions to the contrary, take such action in the exercise of any of its duties under the Transaction Documents and this Deed which in its absolute discretion it considers appropriate; and
- (b) at any time after the Security Trustee becomes aware that an Event of Default has occurred that is continuing, the Security Trustee shall take such action as in its absolute discretion (but subject to the terms of the Transaction Documents and applicable law) it thinks fit to enforce the Transaction Security.

### 7.4 Rights and discretions

- (a) The Security Trustee may:
  - (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
  - (ii) assume that:
    - (A) any Instructions received by it are duly given in accordance with the terms of the Transaction Documents; and
    - (B) unless it has received notice of revocation, that those Instructions have not been revoked; and
  - (iii) rely on a certificate from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
    - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Security Trustee may assume that:
  - (i) no Event of Default has occurred; and
  - (ii) any right, power, authority or discretion vested in any Party has not been exercised.
- (c) The Security Trustee may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Security Trustee may at any time engage and pay for the services of any lawyers to act as independent counsel to the Security Trustee (and so separate from any lawyers instructed by any other Party) if the Security Trustee in its reasonable opinion deems this to be desirable.
- (e) The Security Trustee may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by

the Security Trustee or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.

- (f) Unless a Transaction Document expressly provides otherwise the Security Trustee may disclose to any other Party any information it reasonably believes it has received as agent under this Deed.
- (g) Notwithstanding any other provision of any Transaction Document to the contrary, the Security Trustee is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (h) Notwithstanding any provision of any Transaction Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

#### 7.5 Excluded Obligations

Notwithstanding anything to the contrary expressed or implied in any Transaction Document, the Security Trustee shall not:

- (a) be liable to anyone where it has acted in good faith on the opinion or advice of or any information obtained from any lawyer, accountant, architect, engineer, surveyor, broker, consultant, valuer or other expert (including any auditor), whether obtained by the Security Trustee or otherwise whether or not the expert's liability in respect thereof is limited by a monetary cap or otherwise and whether or not any such opinion, advice or information contains some error or is not authentic; except to the extent that the Security Trustee was grossly negligent in instructing such third party or was grossly negligent in acting on such advice, opinion or information;
- (b) be obliged to monitor or enquire as to whether or not an Event of Default has occurred and will not be deemed to have knowledge of the occurrence of an Event Default unless it has actual knowledge or express notice thereof;
- (c) have any duty to (i) ensure that any payment or other financial benefit in respect of any of the Trust Property is duly and punctually paid, received or collected as and when the same becomes due and payable or (ii) procure that the correct amounts (if any) are paid or received or (iii) ensure the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accrued or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on, or in respect of or in substitution for any of the Trust Property;
- (d) unless required by law or ordered so to do by a court of competent jurisdiction, be required to (i) disclose to any Secured Party any credit or other information (other than information in the Security Trustee's possession specifically concerning the Transaction Documents) with respect to the financial condition or affairs of the Company or any other Affiliate of the Company whether coming into its or any of its Affiliates possession before or on the entry into this Deed or at any time

thereafter or (ii) request any certificates or other documents from the Company unless specifically requested to do so pursuant to Instructions;

- (e) be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account;
- (f) be bound to disclose to any other person (including any Secured Party) (i) any confidential information or (ii) any other information if disclosure would or might in its reasonable opinion constitute a breach of any law or be a breach of fiduciary duty;
- (g) be liable to any of the Secured Parties for any action taken or omitted to be taken under or in connection with any of the Transaction Documents unless caused by its fraud, gross negligence or willful misconduct;
- (h) be under any obligations other than those which are specifically provided for in the Transaction Documents to which it is a party;
- (i) have or be deemed to have any duty, obligation or responsibility to (save as expressly stated in the Transaction Documents), or any relationship of trust or agency with, the Company; or
- (j) be obliged to take any action in relation to enforcing or perfecting any charge over any shares in a company registered or incorporated with unlimited liability.

#### **7.6 Responsibility of Secured Parties**

It is understood and agreed by each Secured Party that at all times that each Secured Party has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigation into all risks arising under or in connection with the Transaction Documents including but not limited to:

- (a) the financial condition, creditworthiness, condition, affairs, status and nature of each of the Company and its Affiliates;
- (b) the legality, validity, effectiveness, adequacy and enforceability of each of the Transaction Documents and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Transaction Documents;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against the Company or any other person or any of their respective assets under or in connection with the Transaction Documents or the transaction contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Transaction Documents;
- (d) the adequacy, accuracy and/or completeness of any information provided by any person in connection with the Transaction Documents or the transactions contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Transaction Documents; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Trust Property, the priority of any of the Transaction Security or the existence of any other Security affecting the Trust Property,

and each Secured Party warrants to the Security Trustee that it has not relied on and will not at any time rely on the Security Trustee in respect of any of these matters.

**7.7 No responsibility to perfect Transaction Security**

The Security Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of the Company to any of the Secured Assets;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Transaction Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Security) under any law or regulation or to give notice to any person of the execution of any Transaction Document or of the Security;
- (d) take, or to require the Company to take, any step to perfect its title to any of the Secured Assets or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to the Debenture.

**7.8 Insurance by Security Trustee**

- (a) The Security Trustee shall not be obliged:
  - (i) to insure any of the Secured Assets;
  - (ii) to require any other person to maintain any insurance; or
  - (iii) to verify any obligation to arrange or maintain insurance contained in any Transaction Document,and the Security Trustee shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.
- (b) Where the Security Trustee is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Security Trustee fails to do so within fourteen days after receipt of Instructions requesting the same.

**7.9 Safekeeping**

- (a) The Security Trustee shall be at liberty to place (at the cost of the Company) any of the Transaction Documents and any title deeds or other documents relating to the Transaction Security in any safe custody selected by the Security Trustee or with any financial institution, any company whose business includes the safe custody of documents or any firm of lawyers of good repute and the Security Trustee shall not be responsible for, or required to insure against, any loss incurred in connection with that deposit.
- (b) The Security Trustee may in its absolute discretion make any such arrangements as it thinks fit for allowing the Company or its lawyers or auditors or other advisers access

to or possession of any title deeds and other documents relating to the Transaction Security.

- (c) The Security Trustee shall not be responsible for any loss which may result arising out of any deposit, access, possession or other matter provided for in this Clause 7.9 except to the extent that such loss is caused by its own gross negligence, willful default or fraud.

#### **7.10 Acceptance of title**

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that the Company or its Affiliates may have to any of the Secured Assets and shall not be liable for, or bound to require the Company to remedy, any defect in its right or title.

#### **7.11 Refrain from Illegality**

The Security Trustee may refrain from doing anything which in its opinion would or might be contrary to any law of any jurisdiction or any directive or regulation binding on it which would or might otherwise render it liable to any person, and the Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

#### **7.12 Business with the Company**

The Security Trustee may provide advisory or other services to and generally engage in any kind of business with the Company or any of its Affiliates whether or not it may or does lead to a conflict with the interests of any of the Secured Parties and may do so without any obligation to account to or disclose any such arrangements to any person.

#### **7.13 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Transaction Document excluding or limiting the liability of the Security Trustee), the Security Trustee will not be liable for:
  - (i) 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 any Transaction Document, unless directly caused by its gross negligence or willful misconduct;
  - (ii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Transaction Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Transaction Document; or
  - (iii) without prejudice to the generality of paragraphs (i) and (ii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,



including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Security Trustee) may take any proceedings against any officer, employee or agent of the Security Trustee in respect of any claim it might have against the Security Trustee or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Transaction Document and any officer, employee or agent of the Security Trustee may rely on this Clause 7.13 subject to Clause 1.4 and the provisions of the Third Parties Act.
- (c) Nothing in this Deed shall oblige the Security Trustee to carry out any "know your customer" or other checks in relation to any person.

Without prejudice to any provision of any Transaction Document excluding or limiting the the Security Trustee's liability, any liability of the Security Trustee arising under or in connection with any Transaction Document shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered but without reference to any special conditions or circumstances known to the Security Trustee at any time which increase the amount of that loss. In no event shall the Security Trustee be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee has been advised of the possibility of such loss or damages.

## **8. Appointment and Removal of Trustee and Security Trustees**

### **8.1 Appointment of Additional Trustees and Security Trustees**

- (a) The Security Trustee shall, at any time and for any purpose or reason whatsoever, have power to appoint any person to act either as a new or additional trustee, or as co-trustee jointly with the Security Trustee with (subject to the provisions of this Deed) such of the Security Trustee's rights (including the right to reasonable remuneration and indemnity but not exceeding those conferred on the Security Trustee by this Deed), duties and obligations as are vested in the Security Trustee by this Deed or any Transaction Document as shall be conferred or imposed on such person by the instrument of such co-trustee's appointment.
- (b) The Security Trustee shall not be bound to supervise, or be responsible for any loss incurred by reason of any act or omission of any such person if the Security Trustee shall have exercised reasonable care in the selection of such person.
- (c) So long as it continues to be a trustee under this Deed, the Security Trustee shall have power to remove any such new or additional trustee or co-security trustee with or without cause.
- (d) Whenever there shall be more than one Security Trustee under this Deed any reference to "Security Trustee", shall be construed as a reference to those trustees or such of them as the context requires.

- (e) Whenever there shall be more than two security trustees under this Deed, the majority of such security trustees shall be competent to execute and exercise all the Security Trustee's rights under this Deed other than those arising under this Clause 8.1.
- (f) The remuneration the Security Trustee may pay to any such person, and any costs and expenses incurred by such person in performing its functions pursuant to that appointment shall, for the purposes of this Deed, be treated as costs and expenses incurred by the Security Trustee.

## 8.2 Delegation

The Security Trustee may at any time delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Transaction Documents and such delegation may be made upon such terms and conditions (including the power to sub-delegate) and subject to such restrictions as the Security Trustee may think fit. The Security Trustee shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate provided that it was reasonable for the Security Trustee to assume the competency of the person to whom any such rights, powers and discretions were delegated.

## 8.3 Retirement or Removal of the Security Trustee

- (a) A Security Trustee may retire at any time (without assigning any reason therefor and without being responsible for any costs occasioned by such retirement) by giving not less than 30 days' prior notice to that effect to Bondholders constituting a majority of the outstanding principal amount of Notes.
- (b) The Bondholders constituting a majority of the outstanding principal amount of the Notes may remove the Security Trustee from its role as trustee under this Deed by giving notice to that effect to the Security Trustee and each of the other Parties.
- (c) If a notice of retirement or removal has been given under paragraph (a) or (b) above, the power to appoint a new security trustee shall vest in the Bondholders holding a majority of the outstanding principal amount of the Bonds but if no successor Security Trustee shall have (i) been appointed by the Bondholders holding a majority of the outstanding principal amount of the Bonds and (ii) accepted such appointment within 30 days of the giving of such notice, the retiring Security Trustee, after consultation with the Bondholders holding a majority of the outstanding principal amount of the Bonds, shall have the right to appoint a successor Security Trustee, which shall be a reputable and experienced bank or other financial institution.
- (d) If a successor to the Security Trustee is appointed under the provisions of this Deed (i) the retiring Security Trustee shall be discharged from any further obligations under, but shall remain entitled to the benefits of, this Deed and (ii) the successor trustee and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original party to this Deed.

**9. Change of Parties**

**Assignment**

No party to this Deed may assign all or any of its rights or transfer any of its obligations under this Deed except as expressly contemplated by this Deed, by the Transaction Documents or as may be required by law.

**10. Fees and Expenses**

**10.1 Security Trustee's Ongoing Fees**

In the event of (a) the occurrence of an Event of Default which is continuing or (b) the Security Trustee considering it necessary or expedient or (c) the Security Trustee being requested by the Company to undertake duties which the Security Trustee and the Company agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Trustee under the Transaction Documents, the Company shall pay to the Security Trustee such additional remuneration (together with any applicable VAT) as may be agreed between them. If the Security Trustee and the Company fail to agree upon the nature of such duties or upon such additional remuneration, that dispute shall be determined by an independent firm of accountants (acting as an expert and not as an arbitrator) selected by the Security Trustee and approved by the Company or, failing such approval, nominated (on the application of the Security Trustee) by the President for the time being of the Law Society of England and Wales (the costs of such nomination and of the independent firm of accountants being payable by the Company) and the determination of any such independent firm of accountants shall, in the absence of manifest error, be final and binding upon the Parties.

**10.2 Transaction and Enforcement Expenses**

- (a) The Company shall, from time to time on demand of the Security Trustee, reimburse the Security Trustee for all reasonable costs and expenses (including legal fees) properly incurred by the Security Trustee, a Receiver or any Delegate in connection with the negotiation, preparation and execution of this Deed and the Transaction Documents and the completion of the transactions and perfection of the security contemplated in the Transaction Documents together with any applicable VAT thereon.
- (b) On a full indemnity basis, for all costs and expenses (including legal fees) incurred by the Security Trustee, a Receiver or any Delegate in connection with the exercise, preservation and/or enforcement of the Security, any of the rights, powers and remedies of the Security Trustee and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security or of enforcing those rights, powers and remedies;

in each case, together with any applicable VAT thereon.

**10.3 Stamp Taxes**

The Company shall promptly pay all stamp, registration, notarial, documentary and other taxes or fees (including any penalties fines, supplements, surcharge or interest relating to such taxes) to which this Deed, the Transaction Documents, the Transaction Security or any judgment given in connection with them, is or at any time may be, subject and shall, from time to time, indemnify the Security Trustee on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax or fee.

#### 10.4 Interest on Demand

If the Company fails to pay any sum on the due date for payment of that sum the Company shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with the provisions of clause 9 (*Default Interest*) of the Bond Instrument.

### 11. Amendments and Releases

#### 11.1 Amendments

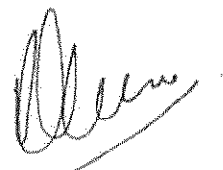
- (a) Unless the provisions of any Transaction Document expressly provide otherwise, the Company and the Security Trustee (acting on Instructions) may amend the terms of, waive any of the requirements of, or grant consents under, this Deed or any of the Transaction Documents, any such amendment, waiver or consent being binding on all the Parties to this Deed and the Security Trustee shall be under no liability whatsoever in respect thereof provided that:
  - (i) the prior consent of holders of 75% of the outstanding principal amount of the Bonds is required to authorise any amendment of any Transaction Document which would affect the manner in which the proceeds of enforcement are distributed or any amendments of this Clause 11.1; and
  - (ii) no new or additional obligations may be imposed upon any person without the consent of that person and any amendment or waiver which relates to the rights of the Security Trustee shall not be effective without the consent of the the Security Trustee.
- (b) Unless the provisions of any Transaction Document expressly provide otherwise, the Company and the Security Trustee may agree with the the Company (and shall exercise its rights, powers and discretions) in the making of any modification to any Transaction Document which (i) relates to administrative matters or is a technical amendment arising out of a manifest error and (ii) would not in the Security Trustee's opinion materially prejudice the Secured Parties.

#### 11.2 Releases

Upon:

- (a) a disposal of any of the Trust Property pursuant to the enforcement of the Security by a Receiver or the Security Trustee; or
- (b) any other disposal of any of the Trust Property which is otherwise permitted under the Transaction Documents,

the Security Trustee shall (at the cost of the Company) release that property from the Transaction Security to which it is subject and may execute, without the need for any further authority from the Secured Parties, any release of the Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.



**12. Termination of the Trusts**

The trusts set out in this Deed shall terminate on the Discharge Date. At that time the Security Trustee shall release, without recourse or warranty, all of the Transaction Security then held by it.

**13. Remedies and Waivers**

No failure by the Security Trustee to exercise, nor any delay by the Security Trustee in exercising, any right or remedy under this Deed shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof or the exercise of any other such right or remedy.

**14. Additional Provisions**

**14.1 Partial Invalidity**

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect or any of the Transaction Security is or becomes ineffective in any respect under the law of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Deed or the effectiveness in any other respect of the Security under such law; or
- (b) the legality, validity or enforceability of such provision or the effectiveness of the Transaction Security under the law of any other jurisdiction.

**14.2 Potentially Avoided Payments**

If the Security Trustee determines that an amount paid to the Secured Parties under any Transaction Document is capable of being avoided or otherwise set aside on the liquidation or administration of the person by whom such amount was paid, then for the purposes of this Deed, such amount shall be regarded as not having been paid.

**14.3 Currency Indemnity**

If any sum due from the Company under this Deed or any order or judgment given or made in relation to this Deed has to be converted from the currency (the "first currency") in which the same is payable under this Deed or under such order or judgment into another currency (the "second currency") for the purpose of (a) making or filing a claim or proof against such Obligor, (b) obtaining an order or judgment in any court or other tribunal or (c) enforcing any order or judgment given or made in relation to this Deed, the Company shall indemnify and hold harmless each Secured Party from and against any loss it suffers or incurs as a result of any discrepancy between (i) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (ii) the rate or rates of exchange at which such Secured Parties may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof.

**14.4 Rights Cumulative**

The rights and remedies provided by this Deed are cumulative and not exclusive of any rights or remedies provided by law.

**14.5 The Trustee Acts**

Where there are any inconsistencies between the Trustee Acts 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 such inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of that Act.

**14.6 Conflicting Provisions**

If there is any conflict between the provisions of this Deed and any Transaction Document with regard to instructions to or other matters affecting the Security Trustee, this Deed will prevail. However, nothing in this Deed shall limit the ability of the Security Trustee to exercise any rights, powers and discretions it may have in its capacity as a Secured Party.

**14.7 Financial Liability**

Nothing contained in this Deed shall require the Security Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties or the exercise of any right, power, authority or discretion hereunder if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

**14.8 Consents**

Any consent given by the Security Trustee for the purposes of this Deed may be given on such terms and subject to such conditions (if any) as the Security Trustee may require.

**15. Notices**

**15.1 Communications in Writing**


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

**15.2 Delivery of Notices**

Any notice, claim, demand or other communication given or made under or in connection with this Deed or the matters contemplated by it must be in writing in the English Language and delivered by courier, or sent by electronic mail or registered or certified first class post (postage prepaid) (airmail if posted to or from a place outside the United Kingdom) and must be addressed to

(a) the Security Trustee at:

More Group Capital Services Limited  
5<sup>th</sup> Floor  
52-54 Gracechurch Street  
London  
EC3V 0EH



(b) the Company at:

Crown House  
151 High Road  
Loughton  
Essex  
IG10 4LG

(c) to each Bondholder at the contact details set out in such Bondholder's Application Form

or such other details as a Party may notify to each other Party by not less than five clear Business Days' notice.

**15.3 Notices to the Security Trustee**

Any communication or document to be made or delivered to the Security Trustee shall be effective only when received by such party and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below or such other department or officer as the Security Trustee shall from time to time specify for this purpose.

**16. Governing Law**

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

**17. Enforcement**

**17.1 Governing law**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

**17.2 Jurisdiction**

Each Party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Security Trustee to take proceedings against the Company or any other Party in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**17.3 Other service**

Each Party irrevocably consents to any process in any legal action or proceedings being served on it in accordance with the provisions of this deed relating to service of notices.

Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

**18. Counterparts and Effectiveness**

**18.1 Counterparts**

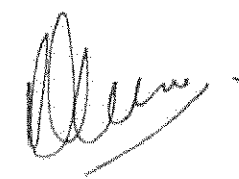
This Deed may be executed in counterparts and such counterparts taken together shall constitute one and the same instrument.

**18.2 Bondholder Adherence**

Each Bondholder shall become a party to this Deed and be bound by the terms hereof as a Secured Party by virtue of the execution of such Bondholder of a duly completed Application Form that has been accepted by the Company. The issuance of a Certificate to a Bondholder shall constitute evidence to such Bondholder that they are a Party hereto.

**18.3 Effectiveness**

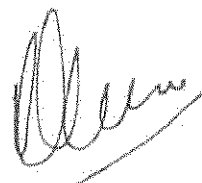
This Deed shall take effect and be delivered as a deed on the date on which it is stated to be made notwithstanding that the Security Trustee or any other Party may have executed it under hand only or has executed it on a date following the date of execution by the Company and the Security Trustee.





This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by  
**WESTWAY HOLDINGS LIMITED** by  
Anthony Marks a director.



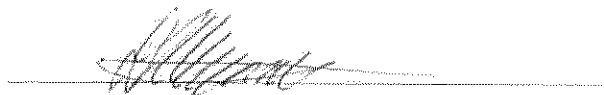
Anthony Marks  
Director

Executed as a deed by  
**MORE GROUP CAPITAL SERVICES LIMITED**  
by Ruairi Laughlin-McCann



Ruairi Laughlin-McCann  
Director

A director, in the presence of:



Signature of Witness

Name:

*Deborah Lee McCann*

Address:

*21 Wellingford, Newport, Pembrokeshire, NP116BE*

Occupation:

*Treasury officer*