



Registration of a Charge

Company name: **Stewart Milne Group Limited**

Company number: **SC057709**



X5GZ35BF

Received for Electronic Filing: **05/10/2016**

Details of Charge

Date of creation: **28/09/2016**

Charge code: **SC05 7709 0182**

Persons entitled: **BANK OF SCOTLAND PLC (AS SECURITY AGENT)**

Brief description: **N/A**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **PAUL ANDERSON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 57709

Charge code: SC05 7709 0182

The Registrar of Companies for Scotland hereby certifies that a charge dated 28th September 2016 and created by Stewart Milne Group Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th October 2016 .

Given at Companies House, Edinburgh on 6th October 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**

SHARES CHARGE

between

STEWART MILNE GROUP LIMITED

in favour of

BANK OF SCOTLAND PLC

as Security Agent

**This Shares Charge is entered into with the benefit of and subject to the terms of
the Intercreditor Agreement (as defined in this Shares Charge)**



**Dickson Minto W.S.
Edinburgh**

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THIS SHARES CHARGE is entered into between:

- (1) **STEWART MILNE GROUP LIMITED**, a company incorporated in Scotland under the Companies Acts (Reg. No. SC057709) and having its registered office at Peregrine House, Mosscroft Avenue, Westhill Business Park, Westhill, Aberdeen AB32 6JQ (hereinafter referred to as the "**Chargor**"); and
- (2) **BANK OF SCOTLAND PLC**, a company incorporated in Scotland with registered number SC327000 and having its registered office at The Mound, Edinburgh EH1 1YZ as agent and trustee for itself and for each of the other Secured Parties (as defined below) on the terms and conditions set out in the Intercreditor Agreement (as defined below) (in such capacity as agent and trustee hereinafter referred to as the "**Security Agent**" (which expression shall include each person appointed as the Security Agent at the date of this Charge or any additional Security Agent appointed for the purpose of, and in accordance with, the Intercreditor Agreement)).

WHEREAS:

- (A) The Senior Lenders (as defined below) have agreed in accordance with the terms and conditions of the facilities agreement originally dated 7 November 2013, as amended and restated on 30 October 2015, as amended on 23 December 2015, as amended on 11 January 2016, as amended on 19 February 2016, as amended on 18 March 2016, as amended on 29 July 2016, as amended on 31 August 2016, as amended and restated on or around the date hereof and as further amended, restated or supplemented from time to time between inter alia, the Chargor (1), the various banks and financial institutions named therein (2) and the Agent (as defined herein) (3) (hereinafter referred to as the "**Facilities Agreement**") to make available to the Borrowers (as defined below) certain term loan, revolving credit and ancillary facilities (hereinafter referred to as the "**Senior Facilities**").
- (B) The Ancillary Lenders (as defined below) may agree in accordance with the terms and conditions of the Facilities Agreement and certain ancillary documents (as such documents are amended, varied, supplemented, novated or replaced from time to time) between inter alia the Borrowers and the Ancillary Lenders to make available to the Borrowers certain ancillary facilities (hereinafter referred to as the "**Ancillary Facilities**").
- (C) The Working Capital Bank (as defined below) has agreed in accordance with the terms and conditions of the Initial Working Capital Facility Agreement (as defined in the Facilities Agreement) (as such documents are amended, varied, supplemented, novated or replaced from time to time hereafter) to provide certain working capital facilities (hereinafter referred to as the "**Working Capital Facilities**").
- (D) The Hedge Counterparties (as defined below) may make after the date hereof interest rate hedging and other similar facilities (hereinafter referred to as the "**Hedging Facilities**") available to an Obligor (as defined below) or any other member of the Group (as defined below).
- (E) It is a condition precedent of the Secured Parties making or continuing to

make the Facilities (as defined below) available that the Chargor enter into this Charge.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions from the Facilities Agreement

Words and expressions defined in the Facilities Agreement or whose definitions are imported into the Facilities Agreement shall bear the same meaning in this Charge (including, without limitation, the recitals and Schedule in this Charge) unless otherwise defined in this Charge or unless the context otherwise requires.

1.2. Definitions

In this Charge:

"**Agent**" means the Agent as defined in the Facilities Agreement.

"**Ancillary Lenders**" means the Ancillary Lenders as defined in the Facilities Agreement and "Ancillary Lender" means any one of them.

"**Borrower**" means a Borrower as defined in the Facilities Agreement and "**Borrowers**" shall be construed accordingly.

"**Company**" means Stewart Milne Properties Limited, a company incorporated in Scotland with registered number SC145941 and having its registered address as Peregrine House, Mosscroft Avenue, Westhill Business Park, Westhill, Aberdeen, AB32 6JQ.

"**Enforcement Event**" means the giving of a notice by the Agent to the Parent under Clause 27.20 (Acceleration) of the Facilities Agreement and/or failure of any party (other than the Security Agent or any Nominee) to comply (or give valid reason to justify (in the opinion of the Security Agent acting reasonably) such non-compliance) with the terms of any warning notice by the Company to any party other than the Security Agent or any Nominee pursuant to paragraph 1(2) of Schedule 1B to the Companies Act within five Business Days of the date on which such warning notice was given.

"**Event of Default**" means an "Event of Default" as defined in the Facilities Agreement.

"**Facilities**" means the Senior Facilities, the Hedging Facilities, the Ancillary Facilities and the Working Capital Facilities.

"**Finance Documents**" means the "Finance Documents" as defined in the Facilities Agreement and any other document which the Security Agent and the Chargor agree shall be designated a Finance Document.

"**Financial Collateral Regulations**" means the Financial Collateral Arrangements (No. 2) Regulations (SI 2003 No. 3226).

"Financial Indebtedness" means Financial Indebtedness as defined in the Facilities Agreement.

"Future Shares" means all shares (other than the Original Shares) in the capital of the Company held from time to time by or for the Chargor.

"Group" means the Group as defined in the Facilities.

"Guarantor" means a Guarantor as defined in the Facilities Agreement.

"Hedge Counterparties" means a Hedge Counterparty as defined in the Facilities Agreement and **"Hedge Counterparties"** shall be construed accordingly.

"Hedging Agreement" means any Hedging Agreement as defined in the Facilities Agreement.

"Intercreditor Agreement" means the intercreditor agreement dated 7 November 2013 and made between, amongst others, the Chargor and the Agent, the Security Agent, the Senior Lenders, the Ancillary Lenders, the Hedge Counterparties and certain others as amended, restated or supplemented from time to time.

"Nominees" means the person or persons nominated by the Security Agent in whose name or names all or any of the Shares are from time to time and for the time being registered in accordance with Clause 4 (Registration of the Shares).

"Obligor" means an **"Obligor"** as defined in the Facilities Agreement and **"Obligors"** shall be construed accordingly.

"Original Shares" means the shares described in the Schedule.

"PSC Notice" means any of:

- (a) a notice issued under section 790D of the Companies Act 2006;
- (b) a notice issued under section 790E of the Companies Act 2006;
- (c) a warning notice issued under paragraph 1 of Schedule 1B of the Companies Act 2006; or
- (d) a restriction notice issued under paragraph 1 of Schedule 1B of the Companies Act 2006.

"Quasi-Security" means an arrangement or transaction in terms of which the Chargor:

- (a) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group (other than pursuant to a Permitted Disposal);

- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms;
- (c) enters into an arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enters into any other preferential arrangements having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

"Related Rights" means:

- (a) any dividend, interest or distribution paid or payable in relation to any Share; and
- (b) any right, money or property accruing, offered or issued at any time in relation to any Share by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

"Repeating Representations" means the Repeating Representations as defined in the Facilities Agreement.

"Schedule" means the Schedule annexed and executed as relative hereto which shall be deemed to form part of this Charge.

"Secured Assets" means all of the assets, property and undertaking for the time being subject to any Security created by, or pursuant to, this Charge.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, cautioner, surety or otherwise or as the equivalent obligor under the laws of any other jurisdiction) of the Chargor or any other Obligor to the Security Agent and the other Secured Parties (or any of them) under the Finance Documents together with (without double counting):

- (a) any refinancing, novation, refunding, deferral or extension of or increase in any of those obligations or liabilities;
- (b) any further advances and additional facilities which may be made by any Secured Party to the Chargor or any other Obligor under any Finance Documents and all interest, fees and costs in connection therewith;
- (c) any claim for damages or restitution in the event of rescission of any of those obligations or liabilities or otherwise in connection with any of the Finance Documents; and

- (d) any amounts which would be included in any of the foregoing but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

"**Secured Parties**" means the Secured Parties as defined in the Facilities Agreement or any of them as the context requires and "**Secured Party**" shall be construed accordingly.

"**Security**" means a fixed security, standard security, mortgage, charge, pledge, lien, assignment in security, assignation in security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Senior Lenders**" means the Lenders as defined in the Facilities Agreement and "**Senior Lender**" means any one of them.

"**Shares**" means the Original Shares and the Future Shares.

"**Working Capital Bank**" means the Working Capital Bank as defined in the Facilities Agreement..

1.3. Interpretation

Save where the contrary is indicated, any reference in this Charge to:

- 1.1.1. "**assets**" includes present and future properties, revenues and rights of every description;
- 1.1.2. a "**company**" includes any body corporate;
- 1.1.3. a "**fixed security**", in relation to any property of a company, means any security (other than a floating charge or a charge having the character of a floating charge) which on the winding up of the company in Scotland would be treated as an effective security over that property including, in particular, a heritable security (within the meaning of Section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970);
- 1.1.4. a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.1.5. a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department or of any regulatory, self-regulatory or other authority or organisation;
- 1.1.6. "**set-off**" includes compensation, rights of retention and the balancing of accounts in bankruptcy;

- 1.1.7. a provision of law is a reference to that provision as amended or re-enacted;
- 1.1.8. the singular shall include the plural and vice versa;
- 1.1.9. this Charge and any provisions of this Charge or to any other agreements, instrument or document are to be construed as references to this Charge, those provisions or that agreement, instrument or document as amended, varied, supplemented, substituted, replaced or novated (however fundamentally) from time to time including (without limiting the generality of the foregoing) any variation, increase, extension or addition of or any variation of or to any facility or amount made available under any Finance Document or any variation of the purposes for which such facility or amount may be available from time to time;
- 1.1.10. references to this Charge shall include the Schedule; and
- 1.1.11. clause references are to be construed as references to the Clauses of this Charge as amended or varied from time to time and references to sub-clauses shall unless otherwise specifically stated be construed as references to the sub-clauses of the Clause in which the reference appears.

1.4. Successors and assignees

Any reference in this Charge to the Security Agent or a Secured Party shall include the successors, permitted assignees and permitted transferees of the Security Agent or such Secured Party.

1.5. Trust

The Security Agent shall hold the benefit of this Charge upon trust for the other Secured Parties in accordance with Clause 16 (The Security Agent) of the Intercreditor Agreement.

2. PAYMENT OBLIGATION

2.1. Undertaking to pay

The Chargor hereby, as principal debtor and not merely as surety, cautioner or guarantor, undertakes to the Security Agent for itself and on behalf of the other Secured Parties that it will pay or discharge the Secured Liabilities on the due date therefor in the manner provided in the relevant Finance Document or, where no such provision is made in the Finance Documents, on demand.

2.2. Interest

If the Chargor fails to pay any sum on the due date for payment of that sum, the Chargor 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 11.3 (Default Interest) of the Facilities Agreement.

3. CHARGE

The Chargor hereby, as continuing security for the prompt payment, performance and observance of the Secured Liabilities, pledges, charges and assigns to the Security Agent the Shares and the Related Rights.

4. REGISTRATION OF THE SHARES

4.1. Registration

Until the Secured Liabilities have been discharged in full and no amounts are capable of being or becoming due or outstanding under the Finance Documents, the Chargor shall procure the registration of the Shares (and any Related Rights) in the name of the Security Agent or the Nominees and shall procure that the Security Agent or the Nominees remains the registered holder of the Shares (and any Related Rights) until the Secured Liabilities have been so discharged.

4.2. Procedure relating to Original Shares

Promptly following the signing of this Charge:

- 4.2.1. the Chargor shall deliver to the Security Agent a signed stock transfer form in respect of the Original Shares in favour of the Security Agent or the Nominees;
- 4.2.2. the Chargor shall procure that a certified true copy of the register of members of the Company is delivered to the Security Agent together with a share certificate in respect of the Original Shares, in each case showing the Security Agent or the Nominees as the registered holder of the Original Shares; and
- 4.2.3. the Security Agent or the Nominees shall endorse the said certified true copy of the register of members of the Company and the reverse of the said share certificate, to the effect that the Security Agent or the Nominees (as the case may be) is registered as the holder of the Original Shares in accordance with and subject to the terms of this Charge.

4.3. Procedure relating to Future Shares

If, after the date of this Charge, any Future Shares are issued to or otherwise acquired by the Chargor (whether legally or beneficially), promptly following the issuance or acquisition (as applicable) of such Shares:

- 4.3.1. the Chargor shall deliver to the Security Agent a signed stock transfer form in respect of such Future Shares in favour of the Security Agent or the Nominees;
- 4.3.2. the Chargor shall procure that a certified true copy of the register of

members of the Company is delivered to the Security Agent together with a share certificate in respect of such Future Shares, in each case showing the Security Agent or the Nominees as the registered holder of such Future Shares;

- 4.3.3. the Security Agent or the Nominees shall endorse the said certified true copy of the register of members of the Company and the reverse of the said share certificate, to the effect that the Security Agent or the Nominees (as the case may be) is registered as the holder of such Future Shares in accordance with and subject to the terms of this Charge; and
- 4.3.4. the Chargor shall do or procure to be done all such other acts and other things and execute or procure to be executed all such other documents (including such deed or deeds supplemental hereto) as the Security Agent shall require in order to create security over such Future Shares equivalent to that created over the Original Shares.

5. VOTING RIGHTS AND DIVIDENDS

5.1. Voting Right and Dividends: Prior to an Enforcement Event

- 5.1.1. Until the occurrence of an Enforcement Event, the Chargor shall be entitled to exercise all voting and other rights and powers attached to the Secured Assets provided that the Chargor shall not exercise any voting rights or other powers in any way that restricts or limits the ability of the Security Agent to sell or transfer the Secured Assets to any third party, conflicts with any of the Finance Documents or is otherwise likely to have an adverse effect on the value of the Secured Assets.
- 5.1.2. Until the occurrence of an Enforcement Event, the Chargor shall be entitled to retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Secured Assets.
- 5.1.3. The Chargor shall indemnify the Security Agent against any loss or liability incurred by the Security Agent or the Nominee as a consequence of the Security Agent or the Nominee acting in respect of the Secured Assets at the direction of the Chargor.
- 5.1.4. The Security Agent shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Secured Assets which the Security Agent considers prejudicial to, or impairing the value of, the security created by this Charge.

5.2. Voting Rights and Dividends: Following an Enforcement Event

After the occurrence of an Enforcement Event, the Security Agent may at its discretion:

- 5.2.1. exercise (or refrain from exercising) any voting rights in respect of the

Secured Assets;

5.2.2. apply all dividends, interest and other monies arising from the Secured Assets in accordance with Clause 11 (Application of Monies); and

5.2.3. in addition to any other power created under this Charge, exercise (or refrain from exercising) all the powers and rights of the legal or beneficial owner of the Secured Assets in each case in such manner and on such terms as the Security Agent may think fit.

6. NEGATIVE PLEDGE

6.1. No other fixed or floating charges

The Chargor shall not (without the prior written consent of the Security Agent) grant, create or permit to subsist any Security or Quasi-Security on or over all or any of the Secured Assets or any part thereof or any interest therein except as permitted under the Facilities Agreement.

6.2. No disposals

The Chargor shall not (without the prior written consent of the Security Agent) sell, assign, lease, transfer or otherwise dispose of or part with possession of (by one or more transactions or a series of transactions whether related or not) the Secured Assets or any part thereof or any interest therein except as permitted under the Facilities Agreement.

7. FURTHER ASSURANCE

7.1. Further assurance

The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

7.1.1. to perfect the Security created or intended to be created under or evidenced by this Charge (which may include the execution of a charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Charge) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to this Charge or by law; or

7.1.2. to facilitate the realisation of the Secured Assets.

7.2. Necessary Action

The Chargor shall take all such action as is available to it (including making all filings and registrations) as is necessary for the purposes of the creation, perfection, protection or maintenance of any Security conferred or intended

to be conferred on the Security Agent or the Secured Parties by or pursuant to this Charge.

8. ENFORCEMENT

8.1. Enforcement

The Security hereby granted and any security interest created pursuant hereto shall be enforceable immediately upon or at any time after:

- 8.1.1. the occurrence of an Enforcement Event;
- 8.1.2. the passing of 14 days following a petition being presented for the winding up or reorganisation of the Chargor without such petition being deemed frivolous or vexatious and having been discharged, stayed or dismissed;
- 8.1.3. an application being presented or resolution proposed for the winding up, reorganisation or administration of the Chargor;
- 8.1.4. the Chargor or any other person entitled to do so giving written notice of its intention to appoint an administrator or liquidator to the Chargor or the appointment of an administrator or liquidator to the Chargor;
- 8.1.5. a written request has been made by the Chargor to the Security Agent for the appointment of a receiver or an administrator;
- 8.1.6. the Chargor breaches any of the material terms of this Charge.

8.2. Rights following enforcement

At any time after this Charge has become enforceable in accordance with Clause 8.1 above, the Security Agent shall be entitled on behalf of the Secured Parties (but shall not be obliged), without any notice to the Chargor or otherwise and whenever the Security Agent thinks fit to:

- 8.2.1. sell or convert into money all or any part of the Secured Assets for such consideration (whether in cash, securities or other assets and whether deferred or not) and whether by private bargain or public auction as the Security Agent may in its sole discretion think fit;
- 8.2.2. exercise (in the name of the Chargor and without any further consent or authority on the part of the Chargor) in respect of any of the Secured Assets, any voting rights and any powers or rights which may be exercised by the person in whose name such securities are registered or who is the holder thereof under the terms hereof; and/or
- 8.2.3. exercise all the powers and rights which may be exercisable by the registered holder of the Secured Assets and generally act in relation to the Secured Assets in such manner as the Security Agent shall think fit.

8.3. Third parties

No purchaser or other person shall be bound or concerned to see or enquire whether the rights of the Security Agent to exercise any of the powers hereby conferred has arisen or not or be concerned with notice to the contrary or of the propriety of the exercise or purported exercise of such powers.

8.4. No liability

Except to the extent resulting from its gross negligence or wilful misconduct, the Security Agent shall not be liable to account to the Chargor for any sums or be liable to the Chargor for any loss or damage arising:

- 8.4.1. from any realisation by the Security Agent of the Secured Assets or any part thereof in the exercise of its rights or powers hereunder; or
- 8.4.2. from any act, default or omission of the Security Agent in relation to the exercise of its powers hereunder; or
- 8.4.3. from the exercise or non-exercise by the Security Agent of any power, authority or discretion conferred upon the Security Agent in relation to the Secured Assets or any part thereof by or pursuant to this Charge.

8.5. Appropriation of Financial Collateral

- 8.5.1. The Security Agent may, to the extent that any of the Secured Assets constitute "financial collateral" (as defined in the Financial Collateral Regulations) and that this Charge constitutes a "security financial collateral arrangement" (as defined in the Financial Collateral Regulations), appropriate such financial collateral in or towards the discharge of the Secured Liabilities.
- 8.5.2. The Chargor and the Security Agent agree for the purposes of Clause 8.5.1 above that the value of any such financial collateral so appropriated shall be the market value thereof as determined by the Security Agent (acting reasonably) by reference to the information available to the Security Agent. The Chargor agrees that such method of valuation shall constitute a commercially reasonable method of valuing the relevant financial collateral for the purposes of the Financial Collateral Regulations.

9. UNDERTAKINGS

9.1. Nominations

- 9.1.1. The Chargor shall terminate with immediate effect all nominations it may have made under Sections 145 and 146 of the Companies Act 2006 in respect of any of the Secured Assets and, pending such termination, procure that any person so nominated:

- (a) does not exercise any rights in respect of the Secured Assets without the prior written approval of the Security Agent; and

- (b) immediately upon receipt, forward to the Security Agent all communications or other information received in respect of any Secured Assets for which it has been so nominated.

9.1.2. The Chargor shall not at any time exercise any rights under Section 145 and 146 of the Companies Act 2006 to nominate any person other than the Security Agent or the Nominee in respect of the Secured Assets.

9.2. Information

The Chargor shall send to the Security Agent copies of all notices, circulars, reports, accounts and other documents which are sent to holders of any Secured Assets promptly following receipt.

9.3. Calls and Payments

Notwithstanding the security created by this Charge, the Chargor shall promptly pay all calls or other payments which may be or become due and payable in respect of any of the Secured Assets. If the Chargor defaults in making such payment, the Security Agent may make such payment on behalf of the Chargor. Any sums paid by the Security Agent shall be reimbursed by the Chargor to the Security Agent on demand.

9.4. No Amendments

9.4.1. The Chargor shall not take, or allow the taking of, any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Secured Assets being altered.

9.4.2. The Chargor shall not cause or permit:

- (a) any of the Secured Assets to be consolidated, sub-divided or converted; or
- (b) any further shares in the share capital of the Company to be issued.

9.5. PSC Notices

The Chargor shall promptly comply with every PSC Notice which it receives in relation to the Secured Assets.

9.6. Failure to comply

If the Chargor fails to comply with this Clause 9, the Security Agent may do such things as in its reasonable opinion may be required to remedy such failure.

10. LIABILITY TO PERFORM

10.1. Acknowledgement

Notwithstanding anything to the contrary in this Charge, the Chargor shall remain liable to observe and perform all of the conditions and obligations relating to the Secured Assets and (save as otherwise herein provided) the Security Agent shall be under no obligation or liability by reason of or arising out of this security (except to the extent required by law). The Security Agent shall not be required in any manner to perform or fulfil any obligations of the Chargor in respect of the Secured Assets.

10.2. Failure by Chargor

In the event of the failure of the Chargor to fulfil any of its obligations under this Charge, the Security Agent may make such payments or perform or fulfil any of the obligations of the Chargor on behalf of the Chargor as in its reasonable opinion may be required.

11. APPLICATION OF MONIES

All moneys received by the Security Agent shall (subject to the repayment of any claims having priority to this Charge) be applied in the following order:

- 11.1.** in or towards the payment of the costs, charges and expenses of and incidental to the enforcement of the security hereby granted or constituted pursuant hereto;
- 11.2.** in or towards the satisfaction of the Secured Liabilities in accordance with the terms of the Intercreditor Agreement; and
- 11.3.** any surplus shall be paid to the Chargor or any other person entitled thereto.

12. REPRESENTATIONS AND WARRANTIES

12.1. Representations and warranties

The Chargor represents and warrants to the Security Agent and the other Secured Parties that:

- 12.1.1.** immediately prior to the completion of the procedure set out in Clause 4 (Registration of the Shares), the Shares are registered in the name of the Chargor;
- 12.1.2.** that the Shares are fully paid up and there are no monies or liabilities outstanding or payable in respect of the Shares or any of them;
- 12.1.3.** there are no restrictions on the sale or transfer of all or any of the Shares under the articles of association of the Company or otherwise (except to the extent required by law);
- 12.1.4.** the Original Shares represent all of the equity share capital of the Company in issue (or agreed to be issued) at the date of this Charge;

- 12.1.5. there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of the Company (including any option or right of pre-emption or conversion);
- 12.1.6. the Chargor has complied with all notices relating to all or any of the Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006; and
- 12.1.7. no warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Shares.

12.2. Repetition

Each of the representations and warranties made by the Chargor under Clause 12.1 (Representations and warranties) above are made on the date of this Charge and on each date that the Repeating Representations are repeated under the Facilities Agreement.

13. POWER OF ATTORNEY

13.1. Power of attorney

The Chargor hereby irrevocably appoints the Security Agent to be its attorney and on its behalf and in its name to sign, seal, execute, deliver and perfect all deeds, instruments and documents which may be required for:

- 13.1.1. completion, stamping and lodging for registration any uncompleted stock transfer forms and any other instruments of transfer in respect of the Secured Assets which the Chargor has delivered or is to deliver to the Security Agent in terms hereof in favour of the Security Agent or the Nominees;
- 13.1.2. carrying out any other obligation imposed on the Chargor by or pursuant to this Charge which the Chargor has not discharged in accordance with the terms of this Charge; and
- 13.1.3. enabling the Security Agent to exercise the rights and powers conferred upon it by this Charge or by law (including the right to sell, lease, convey, transfer or realise any of the Secured Assets).

The Security Agent shall have full power to delegate the power conferred on it by this Clause 13.1 and no such delegation shall preclude the subsequent exercise of such power by the Security Agent itself or preclude the Security Agent from making a subsequent delegation thereof to some other person and any such delegation may be revoked by the Security Agent at any time. The appointment pursuant to this Clause 13.1 is to take effect immediately but the rights and powers of the attorney pursuant to this Clause 13.1 are only exercisable upon the occurrence of an Enforcement Event or where the Chargor has failed to remedy a breach of its obligations under this Charge within 5 Business Days of such breach of obligation.

13.2. Ratification

The Chargor shall ratify and confirm all acts and things done and all deeds, instruments and/or documents signed, sealed, executed and/or perfected by any attorney in the exercise or purported exercise of all or any of its powers under Clause 13.1.

14. PRESERVATION OF SECURITY**14.1. Continuing security**

The Security created by or pursuant to this Charge shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Security Agent and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Secured Liabilities or for any other reason.

14.2. Independence of charge

The Security constituted by or pursuant to this Charge shall be in addition to and independent of, and shall not in any way prejudice or be prejudiced by, any other Security, right or remedy against any person which the Security Agent and the Secured Parties (or any of them) may at any time hold for the satisfaction of all or any part of the Secured Liabilities.

14.3. Waiver of Defences

Neither the obligations of the Chargor under this Charge nor the rights, powers and remedies conferred in respect of the Chargor upon the Security Agent will be affected by any act, omission, matter or thing which, but for this Clause 14.3, would reduce, release or prejudice any of those obligations or those rights, powers and remedies (without limitation and whether or not known to the Chargor or any Secured Party) including:

- 14.3.1. any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 14.3.2. the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 14.3.3. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 14.3.4. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;

- 14.3.5. any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- 14.3.6. any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- 14.3.7. any insolvency or similar proceedings.

14.4. Rights cumulative

The obligations of the Chargor contained in this Charge and all rights, powers and remedies of the Security Agent expressed in this Charge are in addition to and independent of all other rights, powers and remedies possessed by the Security Agent including, without limitation, those provided for in any Finance Document, by applicable law or in any other written instrument or agreement relating to the Chargor's obligations or the Secured Assets.

14.5. Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Agent or any Secured Party, any right or remedy under this Charge shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy.

14.6. Partial invalidity

If, at any time, any provision of this Charge is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Charge nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

14.7. Conditional consents

Any waiver and any consent by the Security Agent under this Charge must be made in writing and (except as otherwise expressly provided herein) may be given subject to any conditions thought fit by the Security Agent. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given and, notwithstanding anything to the contrary contained herein, may be given retrospectively.

15. PRESERVATION OF RIGHTS

15.1. Preservation of rights

Other than as provided in this Charge, the Security Agent shall not be obliged before exercising any of the rights, powers, discretions or remedies conferred upon it by this Charge or by law:

15.1.1. to take any action, including but not limited to the giving of notice to, or making any demand upon, the Chargor or any other person or the obtaining or enforcement of any judgment, decree or order in any court against the Chargor or any other person;

15.1.2. to make or file any claim or proof in the administration, winding-up or liquidation, insolvency or dissolution of the Chargor or any other person; or

15.1.3. to enforce or seek to enforce any of its rights, powers, discretions or remedies under any other Security in respect of the Secured Liabilities.

16. SUBSEQUENT SECURITY INTERESTS

If the Security Agent (acting in its capacity as security agent or otherwise) or any of the other Secured Parties receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Secured Assets, all payments thereafter by or on behalf of the Chargor to the Security Agent (whether in its capacity as security agent or otherwise) or any of the other Secured Parties shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the Security Agent received such notice.

17. SUSPENSE ACCOUNT

Until all of the Secured Liabilities have been irrevocably paid in full, all monies received by the Security Agent or the Nominees may, at the discretion of the Security Agent or the Nominees, be credited to an interest bearing suspense account and may be held in such account for so long as the Security Agent or the Nominees see fit.

18. SET-OFF

A Secured Party may set-off any matured obligation due from the Chargor under the Finance Documents (to the extent owed to that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

19. RELEASE

19.1. Release

Subject to Clause 19.2 (Conditional discharge), the Chargor shall be entitled, after the Secured Liabilities have been irrevocably and unconditionally discharged in full and none of the Secured Parties being under any actual or contingent obligations to make available any facilities of any kind whatsoever under any of the Finance Documents, to require, at its cost and request, the release of any of the Secured Assets charged under this Charge. The Security Agent shall then transfer or cause the Nominees to transfer to the Chargor and the Chargor shall accept the transfer of all the Secured Assets then held by or to the order of the Security Agent and the Security Agent shall at the cost of the Chargor execute or do all such transfers, assurances and things which the Chargor may reasonably require with a view to ensuring the valid reconveyance of the Secured Assets to the Chargor and the release of the Secured Assets from the security created by this Charge.

19.2. Conditional discharge

Any settlement or discharge between the Chargor and the Security Agent shall be conditional upon no security or payment to the Security Agent by the Chargor or any other person on behalf of the Chargor being avoided or reduced by the virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and, if any such payment is so avoided or reduced, the Security Agent shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such settlement or discharge had not occurred.

20. CHANGES IN SECURED LIABILITIES

20.1. The Chargor expressly agrees and acknowledges that the parties to the Finance Documents may from time to time agree to make amendments to the terms of those documents and may enter into such supplemental agreements as are required from time to time in order to give effect to such amendments. Such amendments may include, inter alia, the increase or reduction of the facilities made available under those documents and, for the avoidance of doubt, those facilities will form part of the Secured Liabilities under and in terms of this Charge.

21. ASSIGNATION

21.1. The Security Agent

The Security Agent may (without prejudice to its right to appoint any joint trustee) assign and transfer all or any of its rights and obligations under this Charge to any person appointed as its replacement as Security Agent (or any joint trustee) in accordance with the terms of the Intercreditor Agreement. The Security Agent shall be entitled to disclose such information concerning the Chargor and this Charge in accordance with the terms of the Facilities Agreement.

21.2. The Chargor

The Chargor may not assign or transfer any of its obligations under this Charge or enter into any transaction which would result in any of those rights or obligations passing to another person.

22. INDEMNITY

Without prejudice to Clause 9.6 (Failure to Comply) and Clause 5.1.3, the Chargor shall indemnify the Security Agent and the Nominees against any cost, loss or liability (including, but not limited to, any legal fees and value added tax) incurred by it as a result of:

- 22.1. the taking, holding, protection or enforcement of this Charge;
- 22.2. any and all stamp, registration and similar taxes which may be payable by the Security Agent or the Secured Parties (or any of them) or which the Security Agent or the Secured Parties (or any of them) may resolve to pay in connection with the entry into, or the performance or enforcement of, this Charge (including penalties for late payment);
- 22.3. the exercise or purported exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and/or the Nominees by this Charge or by law;
- 22.4. any default by the Chargor of any of the obligations expressed to be assumed by it in this Charge; or
- 22.5. the proper execution or purported execution of any rights, powers or discretions vested in the Security Agent and/or the Nominees pursuant to this Charge as a result of being the registered holder of the Secured Assets from whatsoever cause arising.
- 22.6. The indemnity under this Clause 22 shall not apply to any cost, loss or liability incurred by the Security Agent or any Nominee where the Security Agent or Nominee (as appropriate) has acted with gross negligence or wilful misconduct.

23. DISCRETION AND DELEGATION**23.1. Discretion**

Any power or right which may be exercised by the Security Agent or the Nominees under this Charge may be exercised in the absolute and unfettered discretion of the Security Agent or Nominees and without any obligation to give reasons.

23.2. Delegation

The Security Agent and the Nominees may delegate (either generally or specifically) by power of attorney or any other manner to any person any right, power, authority or discretion conferred on it by this Charge (including the power of attorney granted under Clause 13 (Power of attorney)). The

Security Agent and the Nominees may make a delegation on the terms and conditions (including the power to sub-delegate) that they think fit. Any such delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such right, power, authority or discretion by the Security Agent or the Nominees.

24. CALCULATIONS AND CERTIFICATES

24.1. Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Charge, the Chargor agrees and acknowledges that the entries made in the accounts maintained by a Secured Party are, in the absence of manifest error, prima facie evidence of the matters to which they relate.

24.2. Certificates and determinations

The Chargor agrees and acknowledges that, any certificate or determination by a Secured Party of a rate or amount under this Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

24.3. Consent to registration

The Chargor hereby consents to the registration of this Charge and of any account or certificate referred to in Clauses 24.1 and 24.2 above for preservation and execution.

25. NOTICES

25.1. Communications in Writing

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

25.2. Address

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Charge is that identified with its name below or any substitute address, fax number or department or officer as the party may notify to the other parties by not less than 5 Business Days' notice.

25.3. Delivery

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

25.3.2. if by way of fax, when received in legible form; or

- 25.3.3. if by way of letter, when it has been left at the relevant address or 5 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,
- 25.3.4. and, if a particular department or officer is specified as part of its address details provided under Clause 25.2 (Address), if addressed to that department or officer.
- 25.3.5. Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agents' signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).
- 25.3.6. Any communication or document which becomes effective, in accordance with Clauses 25.3.1 and 25.3.2 above, after 5.00p.m. in the place of receipt shall be deemed only to become effective on the following day.

25.4. Electronic communication

- 25.4.1. Any communication to be made under or in connection with this Charge may be made by electronic mail or other electronic means (including, without limitation, by posting to a secure website) if the parties:
 - (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- 25.4.2. Any such electronic communication as specified in Clause 25.4.1 above to be made between the Chargor and a Secured Party only be made in that way to the extent that those parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- 25.4.3. Any such electronic communication as specified in Clause 25.4.1 above made between any two parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.
- 25.4.4. Any electronic communication which becomes effective, in accordance with Clause 25.4.3 above, after 5:00 p.m. in the place in which the party to whom the relevant communication is sent or made available

has its address for the purpose of this Charge shall be deemed only to become effective on the following day.

25.4.5. Any reference in this Charge to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 25.4.

25.5. English Language

25.5.1. Any notice given under or in connection with this Charge must be in English.

25.5.2. All other documents provided under or in connection with this Charge must be:

- (a) in English; or
- (b) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

26. DEPOSIT OF DEEDS

The Security Agent shall be entitled to place all deeds, certificates and other documents relating to the Secured Assets deposited with it under or pursuant to this Charge in any safe deposit, safe or other storage selected by the Security Agent or with any solicitor or firm of solicitors and may make any such arrangements as it thinks fit for allowing the Chargor access to, or their solicitors or auditors possession of, such documents when necessary or convenient and the Security Agent shall not be responsible for any loss incurred in connection with any such deposit, access or possession.

27. GOVERNING LAW

This Charge and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with Scots law.

28. JURISDICTION**28.1. Jurisdiction of Scottish Courts**

The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Charge (including a dispute regarding the existence, validity or release of this Charge) (a "**Dispute**").

28.2. Convenient Forum

The Chargor agrees that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

IN WITNESS WHEREOF these presents consisting of this and the 22 preceding pages and the Schedule are executed as follows:

They are signed for and on behalf of
STEWART MILNE GROUP LIMITED
at EDINBURGH
on the 28th day of SEPTEMBER 2016

by:

[REDACTED] Director

in the presence of:

[REDACTED] Signature

RALPH LESLIE McINTOSH Name

[REDACTED] Address

[REDACTED]
[REDACTED] Occupation

Address for Notice:

[REDACTED]
[REDACTED]

Fax:

[REDACTED]

Attention:

Stuart MacGregor

They are signed for and on behalf of
BANK OF SCOTLAND PLC (AS SECURITY AGENT)
at *Edinburgh*
on the *28th* day of *September* 2016

by:

 Attorney

in the presence of:

 Signature

ALASDAIR PROUDFOOT Name

 Address



 Occupation

Address for Notice: 

Fax: 

Attention: Richard Lovell

SCHEDULE

This is the schedule referred to in the foregoing Shares Charge
between Stewart Milne Group Limited and Bank of Scotland plc as Security Agent
dated 28 September 2016

Share Capital of £100.00

Class	Nominal Value	Amount Paid Up	Total Number in Issue (Fully Paid)
Ordinary	£1.00	£100.00	100