



**Registration of a Charge**

Company name: **MAIN TOOL COMPANY LIMITED**

Company number: **SC040330**

Received for Electronic Filing: **30/11/2016**



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**Details of Charge**

Date of creation: **17/11/2016**

Charge code: **SC04 0330 0002**

Persons entitled: **HOWAT CAPITAL PARTNERS UK LIMITED**

Brief description:

**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: **WALTER CLARK**



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

Company number: 40330

Charge code: SC04 0330 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 17th November 2016 and created by MAIN TOOL COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th November 2016 .

Given at Companies House, Edinburgh on 1st December 2016

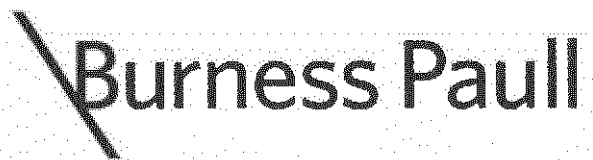
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**



**Certified a true copy**

Edinburgh 22 / 11 / 16

A handwritten signature in dark ink, appearing to be 'WCP' or similar, written over a horizontal line.

for and on behalf of Burness Paull LLP

**NOTE: THIS IS A LEGAL DOCUMENT AND THERE ARE LEGAL CONSEQUENCES TO SIGNING IT. BURNESS PAULL LLP IS ACTING ONLY FOR HOWAT CAPITAL PARTNERS UK LIMITED IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY IT. OTHER PARTIES TO THIS AGREEMENT ARE RECOMMENDED TO TAKE THEIR OWN INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND HOWAT CAPITAL PARTNERS UK LIMITED SHOULD TAKE CAYMAN LEGAL ADVICE BEFORE SIGNING.**

**MAIN TOOL COMPANY LIMITED**

as Chargor

in favour of

**HOWAT CAPITAL PARTNERS UK LIMITED**

as Lender

**BOND AND FLOATING CHARGE**

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## BOND AND FLOATING CHARGE

by

- (1) **MAIN TOOL COMPANY LIMITED**, a company incorporated under the Companies Acts with registered number SC040330 and having its registered office at 120 Bothwell Street, Glasgow, G2 7JL (the “**Chargor**”)

in favour of

- (2) **HOWAT CAPITAL PARTNERS UK LIMITED**, a company incorporated under the Companies Acts with registered number SC516736 and having its registered office at 120 Bothwell Street, Glasgow, G2 7JL (the “**Lender**”)

### CONSIDERING THAT:

- (i) the Lender has agreed to make a loan facility available under the Facility Agreement (as defined below);
- (ii) one of the conditions precedent to the availability of the facility referred to in paragraph (i) above was and is that the Chargor grants to the Lender this bond and floating charge.

### NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

#### 1 DEFINITIONS AND INTERPRETATION

##### 1.1 In this Instrument:

“**Administrator**” means any administrator appointed pursuant to this Instrument;

“**Event of Default**” has the meaning given to it in the Facility Agreement;

“**Facility Agreement**” means the loan agreement dated on or about the date of the Chargor’s execution of this Instrument between the Chargor and the Lender;

“**Insurances**” means the Chargor’s interest in all contracts and policies of insurance which are from time to time taken out or effected by or on behalf of the Chargor in connection with the Secured Assets;

“**Receiver**” means any receiver or administrative receiver appointed in respect of the Secured Assets (whether pursuant to this Instrument, pursuant to any statute, by a court or otherwise) and includes joint receivers;

**“Secured Assets”** means the whole of the property (including uncalled capital) which is or may be from time to time while this Instrument is in force comprised in the property and undertaking of the Chargor; and

**“Secured Liabilities”** means all present and future obligations and liabilities of the Chargor to the Lender, whether actual, contingent, sole, joint and/or several or otherwise, including, without prejudice to the foregoing generality, all obligations to indemnify the Lender.

## **1.2 Construction**

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

1.2.2 The provisions of clauses 1.2 to 1.4 of the Facility Agreement apply to this Instrument as though they were set out in full in this Instrument except that references to the Facility Agreement are to be construed as references to this Instrument.

1.2.3 The term this **“Security”** means any security created by this Instrument.

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

1.2.5 If the Lender considers that an amount paid to it or a Receiver is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Instrument.

1.2.6 Unless the context otherwise requires, a reference to a Secured Asset includes the proceeds of sale of that Secured Asset.

## **2 BOND**

2.1 The Chargor undertakes to the Lender that it will pay or discharge to the Lender all the Secured Liabilities on demand in writing when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).

2.2 Paragraph 14 of Schedule B1 to the Insolvency Act (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to this Instrument which is accordingly a qualifying floating charge.

## **3 FLOATING CHARGE**

The Chargor as security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Lender a floating charge over the Secured Assets.

#### **4 NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE**

- 4.1 The Chargor agrees that it shall be prohibited from granting or creating subsequent to the date of execution of this Instrument any fixed security or any other floating charge over the Secured Assets or any part or parts of them, other than in favour of the Lender or in favour of another person and with the prior written consent of the Lender.
- 4.2 Any fixed security granted by the Chargor in favour of the Lender (whether before or after the date of execution of this Instrument) shall rank in priority to this Security.
- 4.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 or with the consent of the Lender under Clause 4.1 but with no written agreement of the Lender as to the ranking of them, this Instrument shall rank in priority to that fixed security or floating charge.

#### **5 UNDERTAKINGS**

- 5.1 The Chargor hereby undertakes to the Lender that it shall carry on and conduct its business and affairs in a proper and efficient manner and, unless otherwise specifically permitted in the Facility Agreement, it shall:
- 5.1.1 keep all of the Secured Assets in good and sufficient repair and all plant and machinery or other moveable property in good working order and condition, in each case fair wear and tear excepted, and, where necessary for the efficient conduct of its business, renew and replace the same as and when the same shall become obsolete, worn out or destroyed (if commercially prudent to do so);
  - 5.1.2 not, without the prior written consent of the Lender, become cautioner, guarantor or surety for any person, firm or company; and
  - 5.1.3 not, without the prior written consent of the Lender, undertake any obligation to any third party whereby the Chargor's rights to recover or take payment of any monies due or which may become due to the Chargor from any debtor of the Chargor are postponed or subordinated to the claims of such third party.
- 5.2 The Chargor will notify the Lender promptly in the event of any creditor exercising diligence against it or any of the Secured Assets wherever situated or taking any steps which might be expected to lead thereto.

#### **6 SET-OFF**

Without prejudice to any of its other rights, remedies or powers, the Lender shall be entitled to hold all sums which are now or which may at any time hereafter be at the credit of any account or accounts in the name of the Chargor with the Lender as security for the Secured Liabilities and to apply without notice to the Chargor any such

sums in and towards discharge of the Secured Liabilities. The Lender shall not be obliged to exercise its rights under this Clause 6, which shall be without prejudice and in addition to any right of set-off, compensation, combination of accounts, lien or other right to which it is at any time otherwise entitled (whether by operation of law, contract or otherwise).

## **7 ENFORCEMENT**

7.1 In addition to any statutory provisions concerning enforceability or attachment, this Security shall become enforceable upon and the Lender's powers of appointment and other rights and powers shall become exercisable at any time after:

7.1.1 the occurrence of an Event of Default; or

7.1.2 the receipt of any request from the board of directors of the Chargor; or

7.1.3 the taking (or purported taking) by any person of any step towards the winding up or dissolution of the Chargor or towards the appointment of any administrator, trustee, administrative receiver, receiver, liquidator or the like to the Chargor or the whole or any part of its property

and the Lender may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 7.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Lender shall be entitled so to appoint another person as Receiver in his place.

7.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights incidental to ownership of the Secured Assets.

## **8 OFFICE OF RECEIVER**

8.1 Any Receiver appointed under Clause 7 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Lender shall not incur any liability for those (either



to the Chargor or any other person) by reason of the Lender making his appointment as such Receiver or for any other reason whatsoever.

- 8.2 Any Receiver appointed under Clause 7 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Lender (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Instrument.

## **9 APPLICATION OF ENFORCEMENT PROCEEDS**

- 9.1 All monies received by the Lender or any Receiver under or by virtue of this Instrument following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Lender under this Instrument, in the following order:

9.1.1 firstly, in or towards payment of all costs, charges and expenses of or incidental to the appointment of the Receiver and the exercise of all or any of his powers, including his remuneration and all outgoings paid by and liabilities incurred by him as a result of such exercise;

9.1.2 secondly, in or towards satisfaction of the Secured Liabilities in such order as the Lender shall in its absolute discretion decide; and

9.1.3 thirdly, any surplus shall be paid to the Chargor or any other person entitled thereto.

- 9.2 Nothing contained in this Instrument shall limit the right of the Receiver or the Lender (and the Chargor acknowledges that the Receiver and the Lender are so entitled) if and for so long as the Receiver or the Lender, in their discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Instrument into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

## **10 PROTECTION OF SECURITY**

- 10.1 The security created by and any security interest constituted pursuant to this Instrument shall be a continuing security notwithstanding any settlement of account or other matter

or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.

- 10.2 The security created by and any security interest constituted pursuant to this Instrument shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Lender may now or at any time hereafter hold for all or any part of the Secured Liabilities.
- 10.3 No failure on the part of the Lender to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Instrument or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Instrument and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 10.4 Each of the provisions in this Instrument shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Instrument shall not in any way be affected or impaired by that occurrence.
- 10.5 If the Lender receives or is deemed to be affected by notice, whether actual or constructive, of any subsequent security or other interest affecting any part of the Secured Assets and/or the proceeds of sale(s) thereof, the Lender may open a new account or accounts in the name of the Chargor. If the Lender does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives or was deemed to have received notice and as from that time, all payments made to the Lender shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this Instrument is security.
- 10.6 Neither the security created by, nor any security interest constituted pursuant to, this Instrument nor the rights, powers, discretions and remedies conferred upon the Lender by this Instrument or by law shall be discharged, impaired or otherwise affected by reason of:
- 10.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Lender being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Lender from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or

- 10.6.2 the Lender compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
  - 10.6.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Liabilities; or
  - 10.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.
- 10.7 The Lender shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Instrument or by law, to:
- 10.7.1 take any action or obtain judgement or decree in any court against the Chargor; or
  - 10.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or
  - 10.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to the Lender, in respect of any of the Chargor's obligations under the Facility Agreement.

## **11 FURTHER ASSURANCE**

The Chargor shall execute and do all such assurances, acts and things as the Lender may require for perfecting or protecting the security created by or pursuant to this Instrument over the Secured Assets.

## **12 MANDATE AND ATTORNEY**

- 12.1 The Chargor hereby irrevocably appoints the Lender and any Receiver to be its mandatary and attorney for it and on its behalf and in its name or otherwise and as such to create or constitute any deed, or to make any alteration or addition or deletion in or to, any documents which the Lender or the Receiver may require for perfecting or protecting the title of the Lender or the Receiver to the Secured Assets or for vesting any of the Secured Assets in the Lender or the Receiver or its nominees or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignation, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Lender or the Receiver on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Lender or the Receiver of all or any of the Secured Assets.
- 12.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such mandatary or attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 12.

## **13 EXPENSES AND INDEMNITY**

The Chargor must:

- 13.1 immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Instrument by the Lender, attorney, manager, agent or other person appointed by the Lender under this Instrument including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and
- 13.2 keep each of them indemnified against any failure or delay in paying those costs or expenses.

## **14 NOTICES**

All notices, requests, demands and other communications to be given under this Instrument shall be given and/or be deemed to be given in the same manner as notices to be given under the Facility Agreement and the terms of clause 8 (Notices) of the Facility Agreement shall apply *mutatis mutandis* to this Instrument as though that clause were set out in full in this Instrument.

## **15 GOVERNING LAW AND JURISDICTION**

This Instrument shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Lender, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish courts but without prejudice to the

ability of the Lender to proceed against the Chargor in any other appropriate jurisdiction.

16 **CONSENT TO REGISTRATION**

A certificate signed by any official, manager or equivalent account officer of the Lender shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment. The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation and execution: IN WITNESS WHEREOF these presents consisting of this and the preceding 8 pages are executed as follows:

**THE CHARGOR**

SUBSCRIBED for and on behalf of  
the said MAIN TOOL COMPANY  
LIMITED

at GLASGOW

on 17 NOVEMBER 2016

by ALAN MACPHERSON

Print Full Name



Director

before this witness

HEATHER CLARK

Print Full Name



Witness

Address

50 LOTHIAN ROAD

FESTIVAL SQUARE

EDINBURGH