

# MR01

## Particulars of a charge

39/000131



Companies House

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

You can use the WebFiling service to file this form online.  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

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

For further information, please  
refer to our guidance at:  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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



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

THURSDAY



SCT

\*S4L081WY\*

26/11/2015

#23

COMPANIES HOUSE

→ Filling in this form

Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

### 1 Company details

Company number S C 0 4 5 2 2 8

Company name in full WILLIAM JOHNSTON & COMPANY LIMITED

### 2 Charge creation date

Charge creation date 2 9 1 1 2 0 1 5

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

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

Name ALEXANDER CHARLES MCEWEN

Name

Name

Name

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

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

# MR01

## Particulars of a charge

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### Brief description

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

N/A

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

### Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☐ Yes

☒ No

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### Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ Yes Continue

☐ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

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### Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

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### Trustee statement<sup>1</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).

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### Signature

Signature

Please sign the form here.

Signature

X 

FIONA PIPER, KERRAN STEWART LLP  
SOLICITOR TO THE CHARGE

X

This form must be signed by a person with an interest in the charge.

**Presenter information**

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

Contact name **FIONA PIPER**

Company name **KERGAN STEWART LLP**

Address **163 BATH STREET**

Post town **GLASGOW**

County/Region

Postcode **G 2 4 S Q**

Country

DX

Telephone **0141 428 3322**

**Certificate**

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

**Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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

**Important information**

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

**How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

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

**Where to send**

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

**For companies registered in England and Wales:**

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

**For companies registered in Scotland:**

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

**For companies registered in Northern Ireland:**

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

**Further information**

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 45228

Charge code: SC04 5228 0004

The Registrar of Companies for Scotland hereby certifies that a charge dated 23rd November 2015 and created by WILLIAM JOHNSTON & COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th November 2015.

Given at Companies House, Edinburgh on 4th December 2015



**Companies House**



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

# KERGAN STEWART

Lawyers for Business



Certified a true copy of the original document  
*[Signature]* *RONY PIPER*

Solicitor  
Date 25.11.15  
Kergan Stewart LLP  
163 Bath Street  
Glasgow G2 4SQ

## FLOATING CHARGE

by

WILLIAM JOHNSTON & COMPANY LIMITED

in favour of

ALEXANDER CHARLES MCEWEN

2015

163 Bath Street  
Glasgow  
G2 4SQ  
[www.kerganstewart.co.uk](http://www.kerganstewart.co.uk)

## FLOATING CHARGE

by

- (1) WILLIAM JOHNSTON & COMPANY LIMITED, incorporated in Scotland with registered number SC045228 and having its registered office at 9 Spiersbridge Terrace, Thornliebank Industrial Estate, Glasgow, G46 8JH (the "Company")

in favour of

- (2) ALEXANDER CHARLES MCEWEN residing at 48 Peel Road, Thorntonhall, Glasgow, G74 5AG (together the "Lender")

### 1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Floating Charge terms defined in the Loan Note Instrument have the same meaning when used in this Floating Charge and each of the following expressions has, except so far as the context otherwise requires, the meaning shown opposite it:-

**"Event of Default"** has the meaning given to it in the Loan Note Instrument, and shall include a breach by the Company of any of its obligations or undertakings pursuant to this Floating Charge;

**"Floating Charge"** the floating charge hereby created;

**"Guarantee"** means the guarantee and indemnity dated on or around the date of the Floating Charge by Newco, the Company and Spiersbridge Capital Limited in favour of the Lender;

**"Insolvency Act"** Insolvency Act 1986;

**"Loan Note Instrument"** means the loan note instrument of William Johnston & Company (UK) Limited dated on or around the date of this Floating Charge constituting £3,075,000 Secured Loan Notes;

**"Loan Notes"** means the loan notes constituted by the Loan Note Instrument;

**"Receiver"** any person or persons appointed (and any additional person or persons appointed or substituted) as administrative receiver or receiver by the Lender under this Floating Charge or otherwise;

**"Secured Liabilities"** the aggregate of all moneys and liabilities which may now or at any time hereafter be due owing or incurred by the Company to the Lender in any manner whatsoever (including without prejudice to the generality of the foregoing under the terms of the Guarantee) and whether actual or contingent and whether alone or jointly with others, as principal, cautioner, guarantor, surety or otherwise, and in whatever name or style;

**"Security Interest"** any charge, mortgage, pledge, lien, encumbrance or other security interest (whether fixed or floating);

**"Secured Property"** all or any part of the property, assets, undertaking and rights for the time being comprised in or subject to this Floating Charge.

1.2. In this Floating Charge except where the context otherwise requires:-

1.2.1. any reference to the Company or the Lender includes reference to the person or persons deriving title from the Company or the Lender, respectively;

1.2.2. any reference to a document includes reference to any deed or other document of any kind and any reference to any document (including this Floating Charge) or any provision thereof shall be construed as a reference to that document (or provision) as from time to time amended, supplemented, assigned, novated, varied or replaced (in whole or in part);

1.2.3. any reference to a Clause is a reference to a clause of this Floating Charge;

1.2.4. any reference to any statute or other legislative provision shall include reference to any legislative amendment, modification or re-enactment thereof, or any substitution therefore; and

1.3. Clause headings in this Floating Charge are for ease of reference only and shall not affect the interpretation of this Floating Charge.

## 2. UNDERTAKING TO PAY SECURED LIABILITIES

The Company hereby undertakes to the Lender that it will pay, implement, fulfil and discharge the Secured Liabilities to the Lender when the same are due and payable.

## 3. FLOATING CHARGE

3.1. The Company hereby as a continuing security for the payment or discharge of the Secured Liabilities grants in favour of the Lender a floating charge over all of the property (including uncalled capital) which may from time to time, while this Floating Charge is in force, be comprised in the Company's property and undertaking.

3.2. Paragraph 14 of Schedule B1 to the Insolvency Act shall apply to this Floating Charge.

## 4. RANKING

Except as may be otherwise agreed in writing by the Lender and subject to sub-section (2) of section 464 of the Companies Act 1985:-

4.1. the floating charge hereby created shall rank in priority and in preference to:-

- 4.1.1. any fixed security (a "Fixed Security") within the meaning of section 70(1) of the Insolvency Act which may be created by the Company hereafter, other than any such Fixed Security in favour of the Lender which shall in all respects rank in priority and in preference to the floating charge hereby created; and
- 4.1.2. any other floating charge which may be created by the Company hereafter.

## 5. NEGATIVE PLEDGE

Without prejudice to the provisions of Clause 4, until the Secured Liabilities have been irrevocably and unconditionally repaid and discharged in full, the Company shall not, without the consent in writing of the Lender, create or attempt to create or permit to subsist any Security Interest in, over or in any way affecting any of the Secured Property.

## 6. GENERAL UNDERTAKINGS AND REPRESENTATIONS

- 6.1. Until the Secured Liabilities have been irrevocably and unconditionally repaid and discharged in full the Company undertakes to the Lender as follows:-
  - 6.1.1. not without the prior written consent of the Lender to sell, transfer, assign, factor, lease, licence or otherwise dispose or any of the Secured Property or its interest therein other than in the ordinary course of business;
  - 6.1.2. not to cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any part of the Secured Property.
- 6.2. The Company shall:-
  - 6.2.1. at all times comply with the terms of this Floating Charge and of all agreements relating to the Secured Liabilities;
  - 6.2.2. ensure that all the assets comprising the Secured Property that are insurable are insured with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in businesses similar to those of the Company (or as otherwise requested in writing by the Lender, acting reasonably, from time to time) and (without limitation to the generality of the foregoing):-
    - 6.2.2.1. pay all premiums and other money due and payable under all such insurances and provide premium receipts or any other evidence of payment promptly upon request to do so by the Lender;
    - 6.2.2.2. ensure that the interest of the Lender is noted on the policies in respect of such insurances or, at the request of the Lender, that such policies contain such other provisions



for the protection of the Lender as the Lender may from time to time require;

6.2.3. notify the Lender immediately if any creditor executes diligence against the Company or any distress or execution is levied or enforced against the Company or any third party debt order or freezing order is made and served on the Company;

6.2.4. notify the Lender immediately if any steps (including, without limitation, the making of an application or the giving of any notice) are taken by any person (including, without limitation, the Company) in relation to the administration, receivership, winding-up or dissolution of the Company.

6.3. The Company hereby represents and warrants to the Lender as follows:-

6.3.1. the Company has full power and authority and has taken all action necessary (including obtaining all necessary consent and approvals) to enter into and observe the terms of this Floating Charge; and this Floating Charge constitutes valid and binding obligations of the Company enforceable in accordance with their terms; and

6.3.2. neither the Company's execution and delivery of this Floating Charge nor the Company's performance of any of the undertakings or obligations contained in this Floating Charge does or will constitute an Event of Default in terms of the Loan Note Instrument.

## 7. ENFORCEMENT

7.1. The floating charge hereby created shall become immediately enforceable if and when:-

7.1.1. the Company has failed to make payment or discharge of the Secured Liabilities (or part thereof) following a proper demand by the Lender; or

7.1.2. there shall occur any Event of Default which is continuing unwaived or unremedied; or

7.1.3. the Company shall request the Lender to appoint a Receiver or an administrator, or otherwise to enforce this Floating Charge; or

7.1.4. any step is taken by the Company or any other person to appoint an administrator in respect of the Company or to wind up or dissolve the Company or to appoint a liquidator, receiver, administrative receiver or similar officer in respect of the Company or any part of its undertaking or assets; or

7.1.5. if the Company breaches any of the provisions of this Floating Charge.

- 7.2. At any time after this Floating Charge shall have become enforceable the Lender shall be entitled, without further notice to the Company, by instrument in writing to appoint any person or persons to be a Receiver or Receivers of the Secured Property and/or an administrator of the Company in each case in accordance with and to the extent permitted by law.
- 7.3. If at any time the Receiver shall be removed from office as such by the court or shall otherwise cease to act as Receiver the Lender shall be entitled to appoint another person or persons to be the Receiver in his or their place and the Lender may apply to the court for an order removing the Receiver.
- 7.4. The Receiver shall be the agent of the Company and the Company alone shall be responsible for his acts and defaults and liable on any contracts or engagements made or entered into or adopted by him and in no circumstances whatsoever shall the Lender be in any way responsible for or incur any liability in connection with his contracts, engagements, acts, omissions, misconduct, negligence or default.
- 7.5. The Receiver shall have and be entitled to exercise all the powers conferred on administrative receivers by the Insolvency Act and in addition to and without limiting such powers the Receiver shall have power to purchase or acquire any land and purchase, acquire or grant any interest in or right over land, to borrow any monies and secure the payment of any monies in priority to the Company's obligations and liabilities hereunder, to carry on or authorise or concur in the carrying on of the Company's business and undertaking or any part thereof and to manage and conduct the same without being responsible for any loss or damage and for such purposes the Receiver shall have power to do all such other acts or things which he or they may consider to be necessary or desirable for realising the Secured Property or conducive to any of the powers or authorities conferred on the Receiver under or by virtue of this Floating Charge and to exercise in relation to the Secured Property all powers and authorities which he or they would be capable of exercising if he or they were the absolute beneficial owner of such property.
- 7.6. The Company shall be solely responsible for the remuneration, fees, costs, charges and expenses of the Receiver and of any administrator, and the Lender shall not at any time have any liability or responsibility therefor.

#### 8. INDEMNITY

The Company hereby agrees to indemnify the Lender and the Receiver against all losses, claims, costs, expenses and liabilities now or at any time hereafter sustained or incurred by them or any of them or by any person for whose acts or omissions any of them may be liable in connection with anything done or omitted under or in connection with this Floating Charge or in the exercise or purported exercise of any of the powers, authorities or discretions vested in the Lender or the Receiver by this Floating Charge or the Insolvency Act or occasioned by any breach by the Company of any of its undertakings or obligations to the Lender or in consequence of any payment in respect of the Secured Liabilities being declared void or reduced for any reason whatsoever and in respect of all actions, proceedings, costs, claims and demands in respect of any matter or thing done or

omitted in any way in connection with or relating to the Secured Property; and the Receiver may retain or as appropriate pay out of the Secured Property or the proceeds thereof all sums in respect of such liabilities and expenses under the powers conferred on him by this Floating Charge or the Insolvency Act.

9. APPLICATION OF PROCEEDS

All monies which shall be received under the powers conferred by this Floating Charge shall, subject to the payment or repayment of (i) any prior claims and (ii) the costs, charges and expenses incurred by or on behalf of the Lender, the Receiver or an administrator in the enforcement of this Floating Charge be applied in or towards discharge of the Secured Liabilities.

10. PROTECTION OF THIRD PARTIES

No purchaser from or other person dealing with the Lender, the Receiver or an administrator shall be bound or concerned to enquire whether any of the powers exercised or purported to be exercised by the Lender, the Receiver or such administrator has arisen or become exercisable (or to observe or in any way be concerned with any notice to the contrary), whether the Secured Liabilities remain outstanding, whether the Receiver or such administrator is authorised to act or as to the propriety or validity of the exercise or purported exercise of any of such powers.

11. PROTECTION OF THE LENDER, THE RECEIVER AND AN ADMINISTRATOR

Neither the Lender, the Receiver nor an administrator shall be liable to the Company in respect of any loss or damage which arises out of the exercise the attempted or purported exercise or the failure to exercise any of the respective powers of the Lender, the Receiver and such an administrator save in respect of loss or damage arising out of the gross negligence or wilful misconduct of the Lender, the Receiver and such an administrator.

12. FURTHER ASSURANCE

The Company shall promptly and at its own expense execute and do all such assurances, acts and things as the Lender may at any time and from time to time require for the perfection or protection of this Floating Charge hereby created or for facilitating the realisation of the property which is the subject of any such security or any part of such property and the exercise of all powers, authorities and discretions vested in the Receiver or an administrator.

13. POWER OF ATTORNEY

13.1. The Company hereby irrevocably appoints the Lender and any person nominated in writing by the Lender, including the Receiver or any administrator, severally to be the Company's attorney for the Company and on the Company's behalf and in the Company's name:-

13.1.1. to execute and do all acts and things which the Company is obliged to do by the terms of this Floating Charge;

13.1.2. generally to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Floating Charge and to execute and deliver and otherwise perfect any deed, assurance, agreement, instrument or act necessary or appropriate for such purposes.

13.2. The appointment made pursuant to clause 13.1 shall be effective on the date on which the Company executes this Floating Charges but the powers conferred by that clause shall only be exercisable by the Lender or the Receiver or an administrator (as the case may be) following (i) the occurrence of an Event of Default which is continuing unwaived or unremedied or (ii) if the Company has failed to take any steps or actions under clause 12 within 5 Business Days of receiving a request from the Lender to do so.

#### 14. CONTINUING SECURITY

14.1. This Floating Charge is granted for securing *inter alia* further advances and shall be without prejudice and in addition to any other security whatsoever which may be held by the Lender from the Company or any other person for or in respect of the whole or part of the Secured Liabilities; and this Floating Charge shall remain in force as continuing security to the Lender for the Secured Liabilities from time to time notwithstanding any intermediate payment or settlement.

14.2. Neither this Floating Charge nor the Secured Liabilities shall be affected or limited or diminished by:-

14.2.1. the release or waiver of, or any failure to take or perfect any other, security, guarantee or indemnity in respect of the Secured Liabilities whether such security, guarantee or indemnity is granted by the Company or by any other person;

14.2.2. any amendment to or change in any security, guarantee or indemnity other than the floating charge hereby created held by the Lender in respect of the Secured Liabilities whether such security, guarantee or indemnity is granted by the Company or by any other person;

14.2.3. the enforcement or non-enforcement of any such security, guarantee or indemnity whether granted by the Company or any other person;

14.2.4. any time, indulgence, waiver or consent given to the Company or to any other person; or

14.2.5. the illegality, invalidity or unenforceability for any reason of or any defect in any provisions of any agreement or document relating to the Secured Liabilities or the Secured Property or any of the rights or obligations of any of the parties under or in connection with any such agreement or document.

15. OTHER SECURITY INTERESTS

The Company agrees that this Floating Charge is and shall be in addition and without prejudice to any other security or rights the Lender holds or may hold in respect of all or some of the Secured Liabilities.

16. WITHHOLDINGS

All payments by the Company under this Floating Charge, whether in respect of principal, interest, fees or any other item, shall be made in full without any deduction or withholding (whether in respect of set off, counterclaim, duties, taxes, charges or otherwise whatsoever) unless the deduction or withholding is required by law, in which event the Company shall pay to the Lender such additional to the extent necessary to ensure that the Lender receives on the due date a sum equal to the sum which it would have received had there been no such deduction or withholding.

17. NOTICES AND DEMANDS

17.1. All notices or other communications required to be given under this Floating Charge shall be in writing and served by hand or prepaid first class mail and shall be sent to the relevant party at their address set out at the head of this Floating Charge, which may be changed from time to time by notice similarly given.

17.2. Any such notice served as aforesaid shall be deemed to have been given at the time of delivery if delivered by hand or at 10.00 hours on the second Business Day following the day of sending if sent by pre-paid first class post. If the time of such deemed receipt is not during customary hours of business or is on a day other than a Business Day, notice shall be deemed to have been received at 10.00 hours time on the first Business Day thereafter.

18. FURTHER PROVISIONS

18.1. Each of the provisions of this Floating Charge is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable with respect to the Company the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

18.2. The Company agrees to be bound by this Floating Charge notwithstanding that the security hereby created may be determined or may be or become invalid or enforceable against the Company whether or not the deficiency is known to the Lender.

18.3. The rights of the Lender, a Receiver and an administrator under this Floating Charge are cumulative, may be exercised as often as they consider appropriate and are in addition to their respective rights under general law. The respective rights of the Lender, a Receiver and an administrator (whether arising under this Floating Charge or under the general law) shall not be capable of being waived or varied otherwise than by express waiver or variation in writing; and, in particular,

any failure to exercise or any delay in exercising any such rights shall not operate as a variation or waiver of that or any other such right; any defective or partial exercise of such rights shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on their part or on their behalf shall in any way preclude them from exercising any such right or constitute a suspension or variation of any such right.

- 18.4. Any settlement or discharge between the Company and the Lender shall be conditional upon no security or payment granted or made to the Lender by the Company or any other person being avoided or reduced by virtue of any provision or enactment relating to administration, bankruptcy, insolvency or liquidation for the time being in force and accordingly ( but without prejudice to any other rights of the Lender) the Lender shall be entitled to recover the value or amount of such security or payment from the Company as if such settlement or discharge had not occurred.

19. ASSIGNATION

Neither the Company nor the Lender shall be entitled to assign or transfer any of their respective rights or obligations under this Floating Charge without the prior written consent of the other (which shall not be unreasonably withheld or delayed) save that the Lender may assign or transfer its rights or obligations under this Floating Charge to any person to whom it has transferred its interest in the Loan Notes.

20. GOVERNING LAW AND JURISDICTION

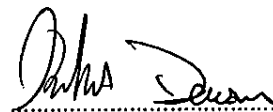
This Floating Charge and the floating charge hereby created shall be governed by and construed in accordance with the law of Scotland. For the benefit of the Lender the Company submits to the non-exclusive jurisdiction of the Scottish courts.

21. CONSENT TO REGISTRATION

The Company consents to the registration of these presents for preservation.

IN WITNESS WHEREOF these presents are executed as follows:-

SUBSCRIBED for and on behalf of  
WILLIAM JOHNSTON & COMPANY LIMITED  
by ROBERT DAWSON  
director  
at GLASGOW on 23 Nov 2015  
in the presence of:-



Director

Witness [Signature]

Full Name ISRAEL BLAU

Address 9, SPIEGELBERG TERRACE

THORNHILL BLANK

GLASGOW  
G46 8 JH