

# M

COMPANIES FORM NO. 410(Scot)

## Particulars of a charge created by a company registered in Scotland

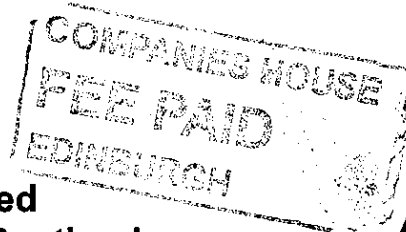
A fee of £13 is payable to Companies House in  
respect of each register entry for a mortgage or  
charge.

Pursuant to section 410 of the Companies Act 1985

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

\*Insert full name  
of Company



# 410

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

--	--	--	--

Company number

SC276234

Name of company

\* Clydeport Longhaugh A Limited

Date of creation of the charge (note 1)

22 September 2005

Description of the instrument (if any) creating or evidencing the charge (note 1)

Composite debenture (the Charge)

Amount secured by the charge

All obligations which the Company may at any time have to the Security Trustee (whether for its own account or as Security Trustee for the Secured Parties) or any of the other Secured Parties under or pursuant to the Finance Documents (including the Charge) including any liability in respect of any further advances made under the Finance Documents, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity) and the Company shall pay to the Security Trustee when due and payable every sum at any time owing, due or incurred by the Company to the Security Trustee (whether for its own account or as Security Trustee for the Secured Parties) or any of the other Secured Parties in respect of any such liabilities provided that (i) neither such covenant nor the security constituted by the Charge shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law, (ii) the Security Trustee shall not make demand for the discharge of such obligations unless such obligations are, at the time of such demand, due and payable or otherwise liable to be discharged in accordance with the terms on which such liabilities were incurred and (iii) any payment by the Company to the Agent or any of the Secured Parties in accordance with the terms of the Facilities Agreement or an Ancillary Facility shall discharge the Company's obligation to pay that amount to the Security Trustee pursuant to the above (the **Secured Obligations**).

Please refer to Paper Apart 1 for definitions.

Names and addresses of the persons entitled to the charge

THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND (as security trustee for the Secured Parties on the terms and conditions set out in the Facilities Agreement) of The Mound, Edinburgh EH1 1YZ (the **Security Trustee**)

Presentor's name address telephone  
number and reference (if any):  
Dundas & Wilson CS LLP  
191 West George Street  
Glasgow G2 2LD

LOH/DEM/BOS001.2520

For official Use

Charge

Post room



## Short particulars of all the property charged

Please refer to Paper Apart 2.

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

Statement, in the case of a floating charge, as to any restrictions on power to grant further securities and any ranking provision (note 2)

Restrictions on power to grant further securities:

The Company undertakes that it shall not, at any time during the subsistence of the Charge, create or permit to subsist any Security over all or any part of the Charged Property other than Security permitted pursuant to the Facilities Agreement.

Ranking provision:

The floating charge constituted by paragraph 3.3.2 of the Charge (see paragraph 3.1 of Paper Apart 2) shall rank immediately behind any prior Permitted Security for so long as such Permitted Security continues to subsist.

Particulars as to commission, allowance or discount paid (see section 413(3))

None

A fee of £13 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)

Signed  Date 7 October 2005

On behalf of the chargee

## Notes

†delete as  
appropriate

- 1 A description of the instrument e.g. "Standard Security" "Floating Charge" etc, should be given. For the date of creation of a charge see section 410(5) of the Act. (Examples - date of signing of an Instrument of Charge; date of recording/registration of a Standard Security; date of intimation of an Assignment.)
- 2 In the case of a floating charge a statement should be given of (1) the restrictions, if any, on the power of the company to grant further securities ranking in priority to, or pari passu with the floating charge; and/or (2) the provisions, if any, regulating the order in which the floating charge shall rank with any other subsisting or future floating charges or fixed securities over the property which is the subject of the floating charge or any part of it.
- 3 A certified copy of the instrument, if any, creating or evidencing the charge, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of the creation of the charge. In the case of a charge created out of the United Kingdom comprising property situated outside the U.K., within 21 days after the date on which the copy of the instrument creating it could, in due course of post, and if despatched with due diligence, have been received in the U.K. Certified copies of any other documents relevant to the charge should also be delivered.
- 4 A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
- 5 Cheques and postal orders are to be made payable to **Companies House**
- 6 The address of the Registrar of Companies is:-  
Companies House,  
37 Castle Terrace  
Edinburgh EH1 2EB      DX 235 Edinburgh or LP - 4 Edinburgh 2

**This is Paper Apart 1 referred to in the foregoing Form 410 in relation to the Charge granted by the Company in favour of the Security Trustee dated 22 September 2005.**

**Definitions:-**

**Unless otherwise provided below, terms defined in the Facilities Agreement shall have the same meaning in the Charge.**

**Account** means any account opened or maintained by the Company with the Security Trustee or any other financial institution (and any replacement account or subdivision or subaccount of that account), and all Related Rights.

**Assigned Account** means any Account that may from time to time be identified in writing as an Assigned Account by the Security Trustee and Peel Ports Holdings Limited (a company registered in England & Wales with registered number 4560438).

**Excluded Assets** means, in respect of the Company any interests (including any Investments or other securities or the benefit of any indebtedness) in any Permitted Joint Venture owned or held by the Company.

**Facilities Agreement** means the senior facilities agreement dated 8 June 2005 made between, amongst others, the Companies, the Arranger, the Original Lender, the Agent and the Security Trustee each as defined in such agreement as amended, varied, novated or supplemented from time to time.

**Insurance Policy** means any policy of insurance (including life insurance or assurance) in which the Company may from time to time have an interest.

**Intellectual Property** means any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, the benefit of all applications and rights to use such assets and all Related Rights.

**Investments** means:

- (a) any stocks, shares, debentures, securities and certificates of deposit (but not including the Shares);
- (b) all interests in collective investment schemes; and
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b),

in each case whether held directly by or to the order of the Company or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system).

**Monetary Claims** means any book and other debts and monetary claims owing to the Company and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which the Company is a party and any other assets, property, rights or undertaking of the Company) other than a book debt falling within paragraph (c) of the definition of Excluded Assets.

**Real Property** means:

- (a) any freehold, leasehold or immovable property; and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property (other than Tangible Moveable Property);

which the Company owns, and includes all Related Rights.

**Related Rights** means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

**Scottish Charged Property** means all of the undertaking, property and assets of the Company, present and future, which is from time to time situated in Scotland (including the Scottish Heritable Property) and all contractual and other rights and other incorporeal moveable property of the Company present and future which is governed by Scots law or the creation of Security over which is governed by Scots law, and including all Related Rights.

**Scottish Heritable Property** means any interest in land whether heritable or leasehold situated in Scotland or governed by Scots law now or hereafter vested in or belonging to the Company.

**Secured Parties** means each Finance Party, each Ancillary Lender (including any Affiliate of a Lender which is an Ancillary Lender) from time to time party to the Facilities Agreement, any Receiver or Delegate and each Hedge Counterparty.

**Shares** means all of the shares listed in Schedule 2 of the Charge and all future shares in any member of the Group incorporated in England and Wales or Scotland in each case held by, to the order or on behalf of the Company at any time.

**Specific Contract** means the contract referred to in paragraph (a) of the definition of "Specific Contract" contained in the Facilities Agreement.

**Tangible Moveable Property** means any plant, machinery, office equipment, computers, vehicles and other chattels owned by the Company (excluding any for the time being forming part of the Company's stock in trade or work in progress) and all Related Rights.

**This is Paper Apart 2 referred to in the foregoing Form 410 in relation to the Charge granted by the Company in favour of the Security Trustee dated 22 September 2005.**

**Short particulars of all the property charged:-**

1. Save in relation to the Scottish Charged Property (excluding the Shares), the Company charges with full title guarantee in favour of the Security Trustee as security trustee for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge (save in respect of any asset already subject to a Permitted Security in which case the security constituted by the Charge shall rank immediately behind such prior Permitted Security for so long as such Permitted Security continues to subsist) all of the Company's right, title and interest from time to time in and to each of the following assets owned by the Company:
  - 1.1 the Real Property;
  - 1.2 the Tangible Moveable Property;
  - 1.3 the Accounts;
  - 1.4 the Intellectual Property;
  - 1.5 any goodwill and rights in relation to the uncalled capital of the Company;
  - 1.6 the Investments;
  - 1.7 the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise);
  - 1.8 all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the Charge;
  - 1.9 the Reports (including all claims for damages or other remedies in respect of any breach of the Reports or inaccuracy in the Reports); and
  - 1.10 the Specific Contract.
2. The Company assigns and agrees to assign absolutely with full title guarantee to the Security Trustee as security trustee of the Secured Parties as security for the payment and discharge of the Secured Obligations all of the Company's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party):
  - 2.1 the proceeds of any Insurance Policy and all Related Rights; and
  - 2.2 all rights and claims in relation to any Assigned Account.
- 3.1 The Company as legal and/or beneficial owner charges in favour of the Security Trustee as security trustee for the Secured Parties with the payment and discharge of the Secured Obligations by way of first floating charge (save in respect of any asset already subject to a Permitted Security, in which case the floating charge constituted by paragraph 3.3.2 of the Charge shall rank immediately behind such

prior Permitted Security for so long as such Permitted Security continues to subsist) all present and future assets and undertaking of the Company.

- 3.2 The floating charge created by paragraph 3.3.2 of the Charge does not cover any assets subject to any fixed Security validly, effectively and enforceably created by the Company under the Finance Documents in favour of the Security Trustee as security trustee for the Secured Parties as security for the Secured Obligations.
- 3.3 The security created by the Company pursuant to paragraphs 3.1 and 3.2 above does not extend to any of the Excluded Assets of the Company.

# FILE COPY



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

Company number 276234

I hereby certify that a charge created by

CLYDEPORT LONGHAUGH A LIMITED

on 22 SEPTEMBER 2005

for securing ALL SUMS DUE, OR TO BECOME DUE

in favour of

THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND

was delivered pursuant to section 410 of the Companies Act, 1985,  
on 7 OCTOBER 2005 given at Companies House, Edinburgh  
11 OCTOBER 2005



C O M P A N I E S H O U S E

