



Registration of a Charge

Company name: **IAN MACLEOD DISTILLERS LIMITED**

Company number: **SC032696**



X6IP8S6J

Received for Electronic Filing: **07/11/2017**

Details of Charge

Date of creation: **03/11/2017**

Charge code: **SC03 2696 0015**

Persons entitled: **PNC BUSINESS CREDIT A TRADING STYLE OF PNC FINANCIAL SERVICES LTD**

Brief description: **N/A**

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

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.**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 32696

Charge code: SC03 2696 0015

The Registrar of Companies for Scotland hereby certifies that a charge dated 3rd November 2017 and created by IAN MACLEOD DISTILLERS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th November 2017 .

Given at Companies House, Edinburgh on 8th November 2017

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



Delivered on 3 NOVEMBER 2017

IAN MACLEOD DISTILLERS LIMITED

PNC BUSINESS CREDIT
A TRADING STYLE OF PNC FINANCIAL SERVICES UK LTD (AS SECURITY
AGENT)

FLOATING CHARGE

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This Floating Charge is delivered on

3 NOVEMBER

2017

Between

- (1) **IAN MACLEOD DISTILLERS LIMITED** a company registered in Scotland with number SC032696, whose registered office is at Russell House, Dunnet Way, Broxburn EH52 5BU (Chargor); and
- (2) **PNC BUSINESS CREDIT** a trading style of **PNC FINANCIAL SERVICES LTD**, a company registered in England and Wales with number 07341483, whose registered office is at PNC House, 34/36 Perrymount Road, Haywards Heath, West Sussex, RH16 3DN, as security trustee for the Secured Parties (**Security Agent**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Charge, the following definitions will apply:

Administrator means any person appointed to be an administrator of the Chargor pursuant to paragraph 14 of Schedule B1 to the Insolvency Act

Authorisation has the meaning given to that term in the Facilities Agreement

Business Day has the meaning given to that term in the Facilities Agreement

Charged Assets means the whole of the property (including uncalled capital) which is or may from time to time, while this Charge is in force, be comprised in the property and undertaking of the Chargor

Companies Act means the Companies Act 2006

Default Rate means the default rate of interest applied in accordance with Clause 13 of the Facilities Agreement

Enforcement Event means a notice is served pursuant to Clause 29.18 (Consequences of an Event of Default) of the Facilities Agreement following an Event of Default

Event of Default has the meaning given to that term in the Facilities Agreement

Facilities Agreement means the master facilities agreement dated on or around the date of this Charge and made between (1) the Chargor (as borrower), (2) PNC Business Credit a trading style of PNC Financial Services Ltd and Bank of Scotland plc (as Arrangers), (3) the parties listed therein as Original Funders (4) the Security Agent (as Agent and Security Agent)

Finance Documents has the meaning given to that term in the Facilities Agreement

Financial Collateral shall have the meaning given to that expression in the Financial Collateral Regulations

Financial Collateral Regulations means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226)

Insolvency Act means the Insolvency Act 1986

Intercreditor Agreement has the meaning given to that term in the Facilities Agreement

Obligor has the meaning given to that term in the Facilities Agreement

Permitted Security has the meaning given to that term in the Facilities Agreement

Receiver means any receiver or administrative receiver appointed in respect of the Charged Assets under this Charge and includes joint receivers

Relevant Jurisdiction means in relation to the Chargor:

- (a) its jurisdiction of incorporation or organisation
- (b) any jurisdiction where any Charged Asset is situated and
- (c) any jurisdiction where it conducts its business

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, surety or in any other capacity whatsoever or as the equivalent obligor under the laws of any other jurisdiction) of an Obligor to any Secured Party under the Finance Documents and including any obligations and liabilities of an Obligor to third parties assigned, novated or otherwise vested in the Security Agent provided that no obligation or liability shall be included in this definition of Secured Liabilities to the extent that, if it were so included, this Charge (or any part of it) would constitute unlawful financial assistance within the meaning of sections 678 and 680 of the Companies Act

Secured Parties has the meaning given to that term in the Facilities Agreement

Security means a mortgage, charge, pledge, trust, assignment by way of security, assignation in security, standard security, lien, hypothecation or other encumbrance, arrangement or security interest securing any obligation of any person or any other agreement or arrangement having a similar effect or any title retention rights or set-off rights created by agreement

Security Financial Collateral Arrangement has the meaning given to it in the Financial Collateral Regulations

Security Period means the period beginning on the date of this Charge and ending on the date on which:

- (a) all of the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and
- (b) the Secured Parties have no further commitment, obligation or liability under or pursuant to the Finance Documents

Spot Rate of Exchange means on a particular day, the spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market, as quoted by Barclays Bank PLC at or about 09:30a.m. on such day

Taxes means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

1.2 Interpretation

- (a) In this Charge, unless the context otherwise requires:
- (i) references to clauses are to be construed as references to the clauses of this Charge;
 - (ii) a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this Charge;
 - (iii) words importing the plural shall include the singular and vice versa;
 - (iv) a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (v) a **Party**, the **Chargor**, the **Security Agent**, any **Lender** or any **Secured Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
 - (vi) **disposal** includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and **dispose** will be construed accordingly;
 - (vii) a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
 - (viii) writing shall, subject to clause 10 (Notices), include any mode of reproducing words in a legible and non-transitory form;
 - (ix) this Charge or any provision of this Charge or any other agreement, document or instrument is to this Charge, that provision or that agreement, document or instrument as amended, novated, supplemented, extended, restated or acceded to from time to time;
 - (x) a time of day is a reference to Edinburgh time; and
 - (xi) references to a **fixed security** mean a fixed security as defined by section 486 of the Companies Act 1985.

1.3 The contents table and headings in this Charge are for convenience only and do not affect the interpretation or construction of this Charge.

1.4 Words importing the singular include the plural and vice versa and words importing a gender include every gender.

1.5 This Charge is granted subject to the terms of the Intercreditor Agreement.

1.6 The words **other**, **include**, **including** and **in particular** do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

2 Covenant to pay

The Chargor covenants with the Security Agent that it will pay or discharge on demand the Secured Liabilities when they fall due in accordance with the terms of the Finance Documents whether by acceleration or otherwise.

3 Default interest

3.1 Any amount which is not paid under this Charge when due shall bear interest in accordance with the terms of the Facilities Agreement.

3.2 Default interest will be calculated at the Default Rate on the basis of the actual number of days elapsed and a year of 365 days and will be compounded at monthly intervals.

3.3 Any amount payable under clause 9.8 (Costs and expenses) shall bear interest from the date such costs, fees or other expenses are incurred until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the Default Rate.

4 Security

4.1 Floating Charge

As a continuing security for the payment of the Secured Liabilities, the Chargor hereby grants a floating charge over the Charged Assets in favour of the Security Agent.

4.2 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by or pursuant to this Charge (and such floating charge is a qualifying floating charge for the purposes of the Insolvency Act).

4.3 Negative pledge

The Chargor covenants with the Security Agent that, unless agreed in writing by the Security Agent and subject to section 464(2) of the Companies Act 1985:

- (a) the Chargor shall not create any fixed security or other floating charge over any part of the Charged Assets after its execution of this Charge, other than any Permitted Security and any fixed security in favour of the Security Agent; and
- (b) this Charge shall rank in priority to any fixed security or other floating charge created by the Chargor after its execution of this Charge except any fixed security in favour of the Security Agent.

5 Enforcement

5.1 When Charge is enforceable

The security constituted by this Charge shall become immediately enforceable upon the occurrence of an Enforcement Event.

5.2 Appointment of a Receiver or Administrator

- (a) At any time after this Charge has become enforceable in accordance with Clause 5.1 the Security Agent shall be entitled:

- (i) to appoint one or more persons as a Receiver or Receivers in respect of the Charged Assets, or apply to the Court for such appointment;
 - (ii) to appoint one or more persons as an Administrator of the Chargor;
 - (iii) to make an administration application in respect of the Chargor; or
 - (iv) to give notice of intention to appoint an Administrator in respect of the Chargor,
 - (v) in each case in accordance with and to the extent permitted by laws applicable to the Chargor and to this Charge.
- (b) The appointment of a Receiver or Receivers or an Administrator, or the giving of notice of intention to appoint an Administrator shall be effected by the Security Agent by written instrument or notice in accordance with and in such form as may be prescribed under the Insolvency Act. If any such person so appointed as Receiver or Administrator is removed from office by the Court or otherwise ceases to act, the Security Agent shall be entitled (subject to the provisions of the Insolvency Act) to appoint a replacement in the same manner.

5.3 Powers of Receiver

A Receiver appointed under this Charge shall have the following powers in addition to those specified in Schedule 2 of the Insolvency Act:

- (a) to promote or procure the incorporation of any new company (whether or not a subsidiary of the Chargor), to transfer any part of the Charged Assets to such company for any form of consideration (including shares, debentures, loan stock or loan capital in such company), and/or to subscribe for or otherwise acquire shares, debentures, loan stock or loan capital in such company in name of the Chargor, or the Receiver, or its or his/her nominee or trustee;
- (b) subject to the articles of association, to convene extraordinary general meetings of the Chargor;
- (c) to make any arrangement or compromise which the Receiver or the Security Agent may think fit;
- (d) generally, without prejudice to the other provisions of this clause to exercise all the rights, powers and discretions in respect of the Charged Assets it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Charged Assets and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Liabilities; and
- (e) in respect of any of the Charged Assets situated in England and Wales (or any other jurisdiction) to exercise in addition to the foregoing powers, all the powers conferred by the Insolvency Act or any other enactment or rule of law on receivers or receivers and managers (or analogous officers) in that jurisdiction.

5.4 Agent of the Chargor

The Receiver shall be the agent of the Chargor for all purposes of and in all respects arising under this Charge and, except as otherwise provided by the Insolvency Act, the Chargor alone

shall be responsible for his/her acts, omissions, neglects and defaults and for all liabilities and obligations incurred by him/her, and his/her remuneration costs, charges and expenses.

5.5 Balance

The rights powers and discretions conferred on the Receiver under this clause are subject only to his/her obligation to account to the Chargor or any other person entitled thereto for any balance of the Charged Assets or their proceeds remaining in his/her hands after the Secured Liabilities have been fully and unconditionally paid and discharged.

5.6 Third parties

- (a) No purchaser from or other person dealing with the Receiver in relation to the Charged Assets shall be concerned to enquire whether any of the powers exercised or purported to be exercised by him/her hereunder has become exercisable, whether any of the Secured Liabilities remains outstanding, or generally as to the propriety or validity of the exercise or purported exercise of any power hereunder.
- (b) The receipt or discharge of the Receiver shall be an absolute discharge to any purchaser or other person dealing with the Receiver in relation to the Charged Assets and any such purchaser or third party shall not have any obligation to enquire after or see to the application of any payments made by it to the Receiver or at its direction.

5.7 Security Financial Collateral Arrangement

- (a) At any time after the security constituted by this Charge has become enforceable and to the extent that any of the Charged Assets constitute Financial Collateral and are subject to a Security Financial Collateral Arrangement pursuant to this Charge, the Security Agent shall have the right to appropriate all or any part of those Charged Assets in or towards the payment or discharge of the Secured Liabilities as are then due and payable as the Security Agent may think fit. The value of such Charged Assets appropriated in accordance with this clause 5.7(a) shall be the price of those Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index, or as determined by such other method as the Security Agent may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this clause 5.7(a) are commercially reasonable.
- (b) To the extent that the Charged Assets constitute Financial Collateral, the Chargor agrees that such Charged Assets may, at the Security Agent's option, be held or designated so as to be under the control of the Security Agent for all purposes of the Financial Collateral Regulations.

6 Liability of the Security Agent

6.1 Liability

The Security Agent and any Receiver shall not in any circumstances be liable to the Chargor or any other person for losses, damages, liabilities or expenses arising from or in connection with the application or enforcement of this Charge or any realisation, appropriation or application of the Charged Assets or from any act, default or omission of the Security Agent or the Receiver or his/her or its officers, employees or agents in relation to the Charged Assets or otherwise in connection with this Charge.

6.2 Indemnity

The Security Agent, any Receiver and every attorney, manager, agent, employee or other person appointed by the Security Agent under or in connection with this Charge shall be and is hereby indemnified by the Chargor in respect of all reasonable liabilities, costs, losses and expenses incurred by them or him in the execution (or purported execution) of any of the powers, authorities or discretions vested in them or him pursuant to the terms of this Charge (or by any law or regulation) and against 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 all or any of the Charged Assets and the Security Agent, any Receiver or any such other person may retain and pay all sums in respect of the same out of money received under the powers conferred by this Charge.

7 Protection of Security

7.1 Continuing security

- (a) This Charge shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Security Agent or any other Secured Party may at any time hold in respect of any of the Secured Liabilities and this Charge may be enforced against the Chargor without the Security Agent or any other Secured Party first having recourse to any other right, remedy, guarantee or Security held or available to it.
- (b) This Charge shall remain in full force and effect as a continuing security until the Security Agent shall have certified in writing that the Secured Liabilities have been discharged in full.

7.2 Waiver of rights

- (a) The obligations of the Chargor under this Charge and the rights, powers and discretions of the Security Agent under this Charge will not be reduced, discharged or otherwise affected by:
 - (i) any time, waiver or consent granted to, or composition with the Chargor or any other person;
 - (ii) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights or remedies against, or Security over assets of the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument;
 - (iv) the Security Agent failing to realise the full value of any Security held by it;
 - (v) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person or any defective or excessive exercise of the Chargor's powers or authority;
 - (vi) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) termination or replacement of

the Secured Liabilities or any document, guarantee or Security related to the Secured Liabilities including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility or other document or Security;

- (vii) any unenforceability, illegality, invalidity, irregularity or frustration of any obligation (actual or purported) of any person under this Charge or any other document, guarantee or Security held in connection with the Secured Liabilities;
- (viii) any claim or enforcement of payment from the Chargor or any other person;
- (ix) any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Chargor or any other person;
- (x) any change in the constitution, name or style of the Chargor or any other person, or if such other person is a partnership or other unincorporated organisation, its dissolution or any change in its status or membership; or
- (xi) anything done or omitted to be done by the Security Agent or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Chargor under this Charge.

7.3 Security Agent's protections

- (a) The Security Agent may make one or more demands under this Charge.
- (b) This Charge shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Security Agent or any Secured Party may at any time hold in respect of any of the Secured Liabilities and this Charge may be enforced without the Security Agent or any Secured Party first having:
 - (i) recourse to any other right, remedy, guarantee or Security held or available to it;
 - (ii) to take action or obtain judgment in any court against the Chargor or any other person;
 - (iii) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person; or
 - (iv) to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person.
- (c) The Chargor's liability under this Charge shall not be discharged or affected by anything that would not have discharged or affected it if the Chargor had been a principal debtor instead of a chargor under this Charge.

7.4 Further assurance

- (a) 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)):

- (i) to perfect the Security created or intended to be created under or evidenced by this Charge (which may include the execution of a pledge, charge, assignation, assignment or assurance 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 any other Secured Party provided by law and/or pursuant to the Finance Documents;
 - (ii) to confer on the Security Agent or any other Secured Party Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Charge;
 - (iii) to facilitate the exercise of any rights, powers and remedies exercisable by the Security Agent, any Secured Party or any Receiver in respect of any of the Charged Assets or provided by or pursuant to the Finance Documents or by law; and/or
 - (iv) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Charge.
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose 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 this Charge and/or pursuant to the Finance Documents.

7.5 Power of attorney

- (a) The Chargor irrevocably appoints the Security Agent to be its agent and attorney in its name and on its behalf to:
- (i) do all things which the Chargor may be required to do under this Charge;
 - (ii) sign, execute (using the company seal where appropriate), deliver and otherwise perfect any Security required to be signed or executed pursuant to the terms of this Charge; and
 - (iii) sign, execute (using the company seal where appropriate), deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required by the Security Agent in the exercise of any of its powers under this Charge, or to perfect or vest in the Security Agent, its nominees or any purchaser, title to any Charged Assets or which the Security Agent may deem expedient in connection with the getting in, disposal, or realisation of any Charged Assets.
- (b) Each agent and attorney may appoint a substitute or delegate his authority.
- (c) The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does or may purport to do in the exercise or purported exercise of the power of attorney conferred by clause 7.5(a).
- (d) The appointment of the Security Agent as agent and attorney of the Chargor under this clause 7.5 shall take effect immediately but shall only become exercisable on the occurrence of an Event of Default which is continuing.

8 Power to Remedy

Without prejudice to the powers granted to the Security Agent under clause 5 (Enforcement), if the Chargor defaults at any time in complying with any of its obligations contained in this Charge, the Security Agent shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Security Agent to do all such things necessary or desirable in connection therewith. Any monies reasonably expended by the Security Agent shall be repayable by the Chargor to the Security Agent on demand together with interest thereon.

9 Appropriation, payments and costs and expenses

9.1 Application of proceeds

All monies received by the Security Agent under this Charge shall (subject to the rights and claims of any person having a security ranking in priority to the security constituted by this Charge) be applied in accordance with the provisions of the Intercreditor Agreement.

9.2 Protection of third parties

No purchaser from or other person dealing with the Security Agent in relation to the Charged Assets shall be obliged or concerned to enquire whether the right of the Security Agent to exercise any of the powers conferred by this Charge in relation to the Charged Assets or any part of the Charged Assets have arisen or become exercisable by the Security Agent, nor be concerned with notice to the contrary, nor with the propriety of the exercise or purported exercise of any such powers and the title of such a purchaser and the position of such a person shall not be affected by reference to any of those matters.

9.3 Notice of subsequent Security – new accounts

- (a) If the Security Agent receives notice (whether actual or otherwise) of any subsequent Security affecting any part of the Charged Assets and/or the proceeds of sale of the Charged Assets, it may open a new account or accounts for the Chargor in its books.
- (b) If the Security Agent does not open a new account immediately on receipt of notice under clause 9.3(a), then (unless the Security Agent gives express written notice to the contrary to the Chargor) all payments made by the Chargor to the Security Agent 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 from the time of receipt of the relevant notice by the Security Agent.

9.4 Consolidation of accounts and set-off

- (a) The Security Agent shall be entitled without notice to the Chargor (both before and after demand):
 - (i) to combine or consolidate all or any sums of money now or hereafter standing to the credit of the then existing accounts of the Chargor with the Security Agent with the liabilities to the Security Agent of the Chargor; and
 - (ii) to set-off, retain as cover for, apply or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Chargor to the Security Agent on any other account or in any other respect.

- (b) The liabilities referred to in this clause 9.4 may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this clause 9.4 may be denominated in any currency.
- (c) If the amounts concerned are expressed in a different currency then the Security Agent may exercise all such rights and is authorised to effect any necessary conversions at the Spot Rate of Exchange.
- (d) If the relevant obligation or liability is unliquidated or unascertained the Security Agent may set-off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

9.5 Currency

- (a) All monies received or held by the Security Agent under this Charge may be converted from their existing currency into such other currency as the Security Agent reasonably considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Spot Rate of Exchange.
- (b) No payment to the Security Agent (whether under any judgment or court order or in the liquidation or dissolution of the Chargor or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made, unless and until the Security Agent shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Security Agent shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security constituted by this Charge to recover the amount of the shortfall.
- (c) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in this Charge to, and any obligations arising under this Charge in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Security Agent (after consultation with the Chargor); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Security Agent (acting reasonably).
- (d) If a change in any currency of a country occurs, this Charge will, to the extent the Security Agent (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

9.6 Appropriation and suspense account

- (a) Subject to clause 9.6(c), the Security Agent may appropriate all payments received in respect of the Secured Liabilities in reduction of any part of those liabilities as it thinks fit.

- (b) Any such appropriation shall override any appropriation by the Chargor.
- (c) All monies received, recovered or realised by the Security Agent under this Charge may at the discretion of the Security Agent be credited to any suspense account for so long as the Security Agent determines (with interest accruing thereon at such rate, if any, as the Security Agent may determine for the account of the Chargor) without the Security Agent having any obligation to apply such monies or any part of them in or towards the discharge of any of the Secured Liabilities.

9.7 Payments

- (a) Subject to clause 9.7(b), all payments to be made by the Chargor in respect of this Charge, shall be made in immediately available funds to the credit of such account as the Security Agent may designate. All such payments shall be made free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent compelled by law, any deduction on account of any Taxes.
- (b) If the Security Agent is compelled by law to withhold or deduct any Taxes from any sum payable hereunder to the Security Agent, the sum so payable by the Security Agent shall be increased so as to result in the receipt by the Security Agent of a net amount equal to the full amount expressed to be payable hereunder.
- (c) Any demand, notification or certificate given by the Security Agent specifying amounts due and payable under or in connection with any of the provisions of this Charge shall, in the absence of manifest error, be conclusive and binding on the Chargor.

9.8 Costs and expenses

- (a) The Chargor shall reimburse the Security Agent in respect of all reasonable expenses, including reasonable legal, valuation, accountancy and consultancy fees (and any value added or similar tax thereon) incurred by the Security Agent in connection with:
 - (i) the negotiation, preparation, execution and completion of this Charge, or any of the documents referred to herein; and
 - (ii) any actual or proposed amendment, replacement, restatement or extension of, or any waiver or consent under, this Charge.
- (b) The Chargor shall reimburse the Security Agent and any Receiver for all costs and expenses, including legal fees (and any value added or similar tax thereon) incurred in connection with the enforcement, attempted enforcement or preservation of any of their respective rights under this Charge, or any of the documents referred to herein.
- (c) The Chargor shall pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Charge or any judgment given in connection therewith and shall indemnify the Security Agent and any Receiver against any and all liabilities, including penalties with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar taxes or charges.

9.9 Assignment and transfer

The Security Agent may assign or transfer all or any part of its rights under this Charge in accordance with and subject to the provisions of the Facilities Agreement. The Chargor may not

assign, transfer, charge, make the subject of a trust or deal in any other manner with this Charge or any of its rights under this Charge or purport to do any of the same without the prior written consent of the Security Agent.

9.10 Contingencies

If this Charge is enforced at a time when no amounts are due to the Secured Parties under the Finance Documents (but at a time when amounts may become so due), the Security Agent may pay the proceeds of any recoveries effected by it into a blocked suspense account.

10 Notices

The provisions of Clause 39 (Notices) of the Facilities Agreement shall be deemed to be incorporated into this Charge, mutatis mutandis, as if the same were set out in full herein.

11 Release

11.1 Release

Upon the expiry of the Security Period (or as otherwise agreed to by the Security Agent, acting reasonably) the Security Agent shall, at the request and cost of the Chargor, take whatever action is necessary to discharge, or release (without recourse or warranty) the Charged Assets from the Security created by this Charge.

11.2 Reinstatement

Any release, discharge or settlement between the Chargor and the Security Agent shall be conditional upon no security, disposition or payment to the Security Agent by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Chargor's liability under this Charge shall continue and the Security Agent shall be entitled to enforce this Charge as if such release, discharge or settlement had not occurred and any such payment had not been made.

11.3 Retention of Security

If any payment or realisation in respect of the Secured Liabilities is, in the Security Agent's reasonable opinion, liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, the Security Agent shall be entitled to retain this Charge undischarged until the expiry of the period during which it may be challenged on any such ground.

11.4 Avoidance of payments

The Security Agent's right to recover the Secured Liabilities in full shall not be affected or prejudiced by any payment or realisation which is avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, or by any release or discharge given by the Security Agent on the faith of any such payment or realisation.

12 General

12.1 Amendments and waivers

No variation to this Charge shall be effective unless made in writing and signed by or on behalf of all the parties to this Charge. A waiver given or consent granted by the Security Agent under

this Charge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

12.2 Severability

Each provision of this Charge is severable and distinct from the others. If at any time any provision of this Charge is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Charge but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Charge shall not be affected in any way.

12.3 Illegality

If any provision of this Charge is found to be illegal, invalid or unenforceable in accordance with clause 12.3 but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.

12.4 Remedies and waivers

The failure or delay in exercising a right or remedy provided by this Charge or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this Charge or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

12.5 Exercise of discretion

Any right or power which may be exercised or any determination which may be made under this Charge by the Security Agent may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefore.

12.6 Rights cumulative

The Security Agent's rights and remedies contained in this Charge are cumulative and not exclusive of any rights or remedies provided by law.

12.7 Delegation

The Security Agent may delegate, by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under this Charge upon any terms (including power to sub-delegate) which it may think fit. The Security Agent shall not be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate.

12.8 Consent to registration

The Chargor consents to the registration of this Charge and of any certificate referred to in clause 9.7(c) for preservation and execution.

13 Governing law and jurisdiction

13.1 Governing law

This Charge together with any non-contractual disputes or claims arising out of or in connection with this Charge shall in all respects be governed by and interpreted in accordance with Scots law.

13.2 Jurisdiction

- (a) For the exclusive benefit of the Security Agent, the Chargor irrevocably agrees that the courts of Scotland are to have jurisdiction to settle any disputes which may arise out of or in connection with this Charge and that any proceedings may be brought in those courts.
- (b) Nothing contained in this clause shall limit the right of the Security Agent to commence any proceedings against the Chargor in any other court of competent jurisdiction nor shall the commencement of any proceedings against the Chargor in one or more jurisdictions preclude the commencement of any proceedings in any other jurisdiction, whether concurrently or not.
- (c) The Chargor irrevocably waives any objection which it may now or in the future have to the laying of the venue of any proceedings in any court referred to in this clause and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agrees that a judgment in any proceedings commenced in any such court shall be conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

14 Counterparts and delivery

14.1 Counterpart execution

This Charge may be executed in any number of counterparts and by the parties on separate counterparts.

14.2 Delivery where Charge is executed in counterpart

Where executed in counterpart:

- (a) this Charge shall not take effect until all of the counterparts have been delivered;
- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (c) the parties may choose to evidence the date of delivery of this Charge by inserting this on the front page of this Charge.

14.3 Delivery where Charge is not executed in counterpart

If this Charge is not executed in counterparts, this Charge shall be delivered on the date inserted on the front page of this Charge or, if no such date is inserted, the date on which the Chargor signed this Charge.

14.4 Appointment of nominated person

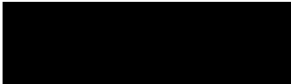
The parties to this Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (**Counterparts Act**), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Charge.

In witness whereof these presents consisting of this and the preceding 15 pages are executed by the parties hereto as follows:

Subscribed for and on behalf of
Ian MacLeod Distillers Limited

at Edinburgh

on 2 November 2017

) 
) Director
) Mike Louger
) Full Name

in the presence of:


.....

Signature of witness

Full name STUART GILLIES

Address Saltire Court
Edinburgh

Subscribed for and on behalf of
**PNC Business Credit a trading style of PNC
Financial Services UK Ltd**

at

on

)
) Authorised Signatory
)
) Full Name

.....
Authorised Signatory

.....
Full Name

14.4 Appointment of nominated person

The parties to this Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (**Counterparts Act**), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Charge.

In witness whereof these presents consisting of this and the preceding 15 pages are executed by the parties hereto as follows:

Subscribed for and on behalf of)
Ian MacLeod Distillers Limited) Director
at)
on) Full Name

in the presence of:

.....
Signature of witness
Full name
Address
.....

Subscribed for and on behalf of)
PNC Business Credit a trading style of **PNC**) Authorised Signatory
Financial Services UK Ltd)
at *Highways North*) *DAVID KELSEY*
on *03/11/2017*) Full Name

.....
Authorised Signatory

Ben Williams
.....
Full Name