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CHWP000

COMPANIES FORM No. 466(Scot)

Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

466

Please do not
write in
this margin

Pursuant to section 410 and 466 of the Companies Act 1985

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

* insert full name
of company

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

44

Company number

SC090866

Name of company

* Dawn Homes Limited (the "Company")

Date of creation of the charge (note 1)

13 February 2014

Description of the instrument creating or evidencing the charge or of any ancillary document which has
been altered (note 1)

Floating Charge (the "Charge")

Names of the persons entitled to the charge

Bank of Scotland PLC (the "Bank")

Short particulars of all the property charged

The whole of the property (including uncalled capital) which is or may be from time to time comprised in
the property and undertaking of the Company.

Presenter's name address and
reference (if any):

CMS Cameron McKenna Nabarro
Olswang LLP
20 Saltire Court, Castle Terrace
Edinburgh EH1 2EN
JAH0/DACM/034409.00235

For official use (02/06)

Charges Section

COMPANIES HOUSE
EDINBURGH

09 MAY 2019

FRONT DESK

Post room



S854SM63

SCT

09/05/2019

#40

COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

Bank of Scotland PLC (Company Number SC327000) whose registered office is at The Mound
Edinburgh EH1 1YZ.
John Craig and Anne Craig residing together at 17 The Beeches, Brookfield PA5 8UZ.
Dawn Homes Limited (Company Number SC090866) whose registered office is at 220 West George
Street, Glasgow G2 2PG.
Isobel Stirling residing at 14 Darley Crescent, Troon KA10 6JH.
Helen Gaughan residing at 9 Lilywhite Drive, Cambridge CB4 1GB.
Alasdair James Craig residing at 27 St Annes Drive, Glasgow G46 6JS.

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this margin*

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

Date(s) of execution of the instrument of alteration

1 March 2019, 16 March 2019, 18 March 2019, 20 March 2019, 10 April 2019 and 23 April 2019.

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

The Company shall not grant any further fixed or floating charges over all or any of its Assets including its heritable, real or leasehold property without the written consent of the Bank and shall not grant any further fixed charges over the Property without the written consent of the Assignees.

See definitions section of the attached instrument of alteration for defined terms.

Short particulars of any property released from the floating charge

None

The amount, if any, by which the amount secured by the floating charge has been increased

None

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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this margin*

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legibly, preferably
in black type, or
bold block lettering*

Ranking of Securities

The Bank, the Assignees, and the Company agree that the sums secured or to be secured by the Bank Securities and the Craig Fixed Security shall rank in the following order of priority:

- Craig Fixed Security to the extent of the Craig Priority Debt; then
- Bank Securities to the extent of the Bank Debt; then
- Craig Fixed Securities to the extent of the balance of the Craig Debt (if any).

See clauses 3 and 5 of the attached instrument of alteration for full details and the definitions section of the attached instrument of alteration for defined terms.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not
write in
this margin*

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

Signed  Date 8 May 2019

On behalf of ~~[company]~~ [chargee] ☒ For and on behalf of CMS Cameron McKenna Nabarro Olswang LLP

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. ☐ delete as appropriate
For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, 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 execution of that instrument.
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. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh



FILE COPY

**CERTIFICATE OF THE REGISTRATION
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 90866
CHARGE CODE SC09 0866 0044

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT
OF ALTERATION DATED 23 APRIL 2019 WERE DELIVERED
PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985
ON 9 MAY 2019

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 13
FEBRUARY 2014

BY DAWN HOMES LIMITED

IN FAVOUR OF
BANK OF SCOTLAND PLC

GIVEN AT COMPANIES HOUSE, EDINBURGH 13 MAY 2019

DISCHARGE OF RANKING AGREEMENT AND FURTHER RANKING AGREEMENT

among

BANK OF SCOTLAND PLC

and

JOHN CRAIG and ANNE CRAIG

and

DAWN HOMES LIMITED

and

ISOBEL STIRLING, HELEN GAUGHAN and ALASDAIR JAMES CRAIG

PROPERTY: Barbush Farm, Johnstone

I CERTIFY THAT, SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006, THIS COPY INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL CERTIFIED TO BE A TRUE AND COMPLETE COPY OF THE ORIGINAL

[Signature]

For and on behalf of:
CMS Cameron McKenna Nabarro Olswang LLP
Saltire Court, 20 Castle Terrace, Edinburgh EH1 2EN

Date: 8th May 2019

Holmes Mackillop Limited

Solicitors

35 William Street

Johnstone

PA5 8DR

FAS 1845

DISCHARGE OF RANKING AGREEMENT AND FURTHER RANKING AGREEMENT

among

BANK OF SCOTLAND PLC, incorporated under the Companies Acts (Company Number SC327000) and having their registered office at The Mound, Edinburgh, EH1 1YZ ("**Bank**")

and

JOHN CRAIG and ANNE CRAIG, spouses formerly residing together at Barbush Farm, Johnstone and now residing together at 17 The Beeches, Brookfield, PA5 8UZ ("**Craig**")

and

DAWN HOMES LIMITED, incorporated under the Companies Acts (Company Number SC090866) and having their Registered Office at 220 West George Street, Glasgow G2 2PG ("**Company**")

and

ISOBEL STIRLING, residing at 14 Darley Crescent, Troon, KA10 6JH, **HELEN GAUGHAN**, residing at 9 Lilywhite Drive, Cambridge, CB4 1GB and **ALASDAIR JAMES CRAIG**, residing at 27 St Annes Drive, Glasgow, G46 6JS ("**Assignees**")

WHEREAS:

the Company has granted in favour of the Bank (i) a fixed security over the Property; and (ii) a bond and floating charge over the Assets;

the Company has granted in favour of Craig a fixed security over the Property;

Craig has assigned the Craig Fixed Security and the Missives (as hereinafter defined) to the Assignees with the consent and concurrence of the Company;

the Bank and Craig and the Company wish to discharge the Ranking Agreement (as hereinafter defined)

the Bank and the Assignees wish to regulate the ranking of the Securities; and

the Company has agreed to acknowledge the terms of this Agreement;

NOW IT IS AGREED as follows:

1 Definitions and Interpretation

1.1 Definitions

In the interpretation of this Agreement:

- 1.1.1 **"Assets"** means the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Company;
- 1.1.2 **"Bank Debt"** means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Bank by the Company, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not the Bank shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which the Bank may in the course of its business charge or incur in respect of any of those matters or for keeping the Company's account, and so that interest shall be computed and compounded according to the usual Bank rates and practice as well after as before any demand made or decree obtained;
- 1.1.3 **"Bank Fixed Security"** means the standard security over the Property granted by the Company in favour of the Bank dated 21 July 2017 and registered in the Land Register of Scotland under Title Number REN122285 on 4 August 2017 in security for the Bank Debt;
- 1.1.4 **"Bank Floating Charge"** means (i) the bond and floating charge granted by the Company in favour of the Bank over the Assets dated 16 October 2002 and registered with the Registrar of Companies on 22 October 2002; (ii) the bond and floating charge granted by the Company in favour of the Bank over the Assets dated 13 February 2014 and registered with the Registrar of Companies on 18 February 2014; and (iii) the bond and floating charge granted by the Company in favour of the Bank over the Assets dated 28 July 2017 and registered with the Registrar of Companies on 1 August 2017, each in security for the Bank Debt;
- 1.1.5 **"Bank Securities"** means the Bank Fixed Security and the Bank Floating Charge;
- 1.1.6 **"Craig Debt"** means the Clawback Payments attributable to the Property by virtue of and as defined in the Missives;
- 1.1.7 **"Craig Fixed Security"** means the standard security over the Property granted by the Company in favour of Craig registered in the Land Register of Scotland under Title Number REN122285 on 5 February 2007 in security for the Craig Debt assigned by Craig to the Assignees by the Craig Fixed Security Assignment
- 1.1.8 **"Craig Fixed Security Assignment"** means the assignment of the Craig Fixed Security by Craig with the consent and concurrence of the Company and executed by Craig and the Company of even date with their respective execution of this Agreement and registered in the Land Register of Scotland under Title Number REN 122285 of even date with the registration therein of this Agreement;

- 1.1.9 **"Craig Priority Debt"** means the aggregate of sums to which the Assignees are entitled in terms of Clause 8 of the Missives, being the aggregate amount, secured by the Craig Fixed Security less any sums which have already been paid by the Company to Craig or the Assignees in accordance with the terms of the Missives;
- 1.1.10 **"enforce"** (and all derivations from it) means the taking of any of the following actions:
- 1.1.10.1 appointing a receiver pursuant to or in respect of any of the Securities;
 - 1.1.10.2 exercising a power of sale or otherwise utilising the rights given to a creditor under any of the Securities;
 - 1.1.10.3 suing for payment of the Bank Debt or the Craig Debt;
 - 1.1.10.4 petitioning for an administration order; or
 - 1.1.10.5 exercising of any rights of set-off, retention, combination of accounts or similar right in respect of the Bank Debt or the Craig Debt;
- 1.1.11 **"Missives"** means the missives between the Company and Craig dated 22 December 2006 and any variation thereof assigned by Craig and the Assignees with the consent and concurrence of the Company and ABMS Scotland LLP, a limited liability partnership constituted under the Limited Liability Partnership Act 2000 (Registered Number SO306394) and having its Registered Office at 23 Midton Road, Prestwick, KA9 1PJ and executed by Craig, the Assignees and the Company of even date with their respective execution of this Agreement;
- 1.1.12 **"Original Parties"** means the Bank, Craig and the Company;
- 1.1.13 **"Property"** means the subjects known as Barbush Farm, Johnstone registered in the Land Register of Scotland under Title Number REN122285;
- 1.1.14 **"Ranking Agreement"** means the ranking agreement between the Bank, Craig and the Company dated 19th and 25th October and 14th November and registered in the land Register of Scotland under Title Number REN122285 on 4th August, 2017;
- 1.1.15 **"Securities"** means the Bank Securities and the Craig Fixed Security.

1.2 Interpretation

- 1.2.1 References to this Agreement and to any provisions of it shall be construed as references to it in force for the time being and as amended, varied, supplemented, substituted or novated from time to time.
- 1.2.2 References to:

- 1.2.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;
 - 1.2.2.2 control of any company shall be interpreted in accordance with Section 995 of the Income Tax Act 2007;
 - 1.2.2.3 including shall not be construed as limiting the generality of the words preceding it;
 - 1.2.2.4 any term or phrase defined in the Companies Act 1985 or the Companies Act 2006 (each as amended from time to time) shall bear the same meaning in this Agreement;
 - 1.2.2.5 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
 - 1.2.2.6 this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
 - 1.2.2.7 any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
 - 1.2.2.8 any person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
 - 1.2.2.9 clause headings are for ease of reference only and are not to affect the interpretation of this Agreement.
- 1.2.3 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, express or implied, between the parties to it (or any of them) in relation to the subject matter of this Agreement.

2 Discharge of the Ranking Agreement

The Original Parties discharge the Ranking Agreement upon registration of these presents over the Property.

3 Ranking of Securities

- 3.1 The Bank, the Assignees, and the Company agree that the sums secured or to be secured by the Bank Securities and the Craig Fixed Security shall rank in the following order of priority:

- 3.1.1 Craig Fixed Security to the extent of the Craig Priority Debt; then
- 3.1.2 Bank Securities to the extent of the Bank Debt; then
- 3.1.3 Craig Fixed Security to the extent of the balance of the Craig Debt (if any).

DECLARING THAT

- 3.1.4 the Craig Priority Debt shall be reduced (i) upon the sale of each residential unit on the Property by the sum paid to the Assignees; or (ii) upon the grant of planning consent for any commercial development on the Property, by the sum paid to the Assignees by way of an uplift, each in accordance with the terms of the Missives.
 - 3.1.5 Upon payment of the Craig Priority Debt by the Company, the Assignees agree to discharge the Craig Standard Security and the Missives as soon as reasonably practicable thereafter; and
 - 3.1.6 The priority arrangements in this Clause 2.1 shall cease on 19 January 2027 in accordance with the terms of the Missives.
- 3.2 The ranking and priority set out in Clause 3.1 shall take effect notwithstanding any of the following:
- 3.2.1 the nature of the securities created by the Bank Securities and Craig Fixed Security and the dates of execution and registration of them;
 - 3.2.2 any provision contained in any of the Securities;
 - 3.2.3 the date or dates on which moneys have been or may be advanced or become due, owing or payable under the Bank Securities and Craig Fixed Security respectively;
 - 3.2.4 the existence of any credit balance on any current or other account of the Company with the Bank;
 - 3.2.5 the appointment of a liquidator, administrative receiver, receiver, administrator or other similar officer in respect of the Company or over all or any part of the Assets;
 - 3.2.6 the granting of time or any other indulgence to the Company or any other person or the release, compounding or otherwise dealing with the Company or any other person or the receipt of moneys whether arising from a voluntary sale of any Assets subject to any of the Securities or in respect of any security or guarantee held by either of the Assignees in respect of the Craig Debt, the Bank in respect of the Bank Debt or otherwise prior to enforcement;
 - 3.2.7 the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or enforce any rights or remedies against the Company or any other person by either of the Bank or the Assignees;

3.2.8 the provisions of Section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970 or of Sections 464 and 466 of the Companies Act 1985 or any other rule of law which might operate to the contrary.

4 Debt Fluctuation

Each of the Bank and the Assignees agree that the Bank may, at their discretion, make further advances to the Company and each such advance will be deemed to constitute Bank Debt for the purposes of this Agreement, provided that all such further advances of Bank Debt shall rank in accordance with the provisions of Clause 3.1.

5 Security to be Continuing

The Securities shall rank as provided in this Agreement as continuing securities for repayment of the amounts owing to each of the Assignees and the Bank from time to time by the Company or by any person or company whose obligations to the Assignees or the Bank are guaranteed by the Company.

6 Agreement

If a receiver or liquidator or administrator of the Company regards this Agreement as failing to bind him in the distribution of the proceeds of sale of the assets of the Company (and in as far as the refusal of the receiver or liquidator or administrator to be bound by this Agreement causes prejudice to the Bank or the Assignees), the Bank and the Assignees will compensate each other to the extent to which they have benefited as a result of this refusal.

7 Enforcement

- 7.1 The Assignees undertake not to exercise any of its rights to enforce its rights under the Craig Fixed Security without the prior written consent of the Bank;
- 7.2 The Bank will notify the Assignees as soon as reasonably practicable following the exercise of any of its rights to enforce the Bank Securities.

8 Authority to Release Information

During the continuance of each of the Bank Securities and Craig Fixed Security, the Bank and the Assignees may disclose to each other information concerning the Company and its affairs in such manner and to such extent as the Bank and the Assignees may wish and the Company consents to such disclosure.

9 Consent

The Bank hereby consents to the assignation of the Craig Fixed Security to the Assignees.

10 Variation

The Bank Securities and Craig Fixed Security are varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as a variation within the meaning of Section 16 of the Conveyancing & Feudal Reform (Scotland) Act 1970 and an Instrument of Alteration within the meaning of Section 466 of the Companies Act 1985.

11 Transfers

The Bank shall not assign or transfer the benefit of any of the Bank Securities and the Assignees shall not assign or transfer the benefit of the Craig Fixed Security unless the assignee or transferee first agrees in writing with the Bank or the Assignees, as the case may be, to be bound by the provisions of this Agreement.

12 Miscellaneous

Unless and until the Bank Securities are discharged, the Assignees agree that the proceeds of any insurance policy in respect of any Assets shall, notwithstanding any endorsement or notation on any such policy to the contrary, prior to enforcement by the Bank be used by the Company in repair and reinstatement or replacement of such Assets. The Company acknowledges by its execution of this Agreement that it has no right, title or interest to enforce this sub-clause for its own benefit.

13 Notices

13.1 All notices or other communications to be made or given under this Agreement shall be in writing and shall be by first-class pre-paid post or by fax.

13.2 Receipt shall be deemed to have occurred forty-eight hours after posting (unless hand-delivered and then at the time of delivery) and if by fax when sent provided a transmission report is received.

13.3 Any notice to the Bank shall be addressed to:

**Bank of Scotland
110 St Vincent Street
Glasgow
G2 5ER
FAO Andy Seaton**

13.4 Any notice to Craig shall be addressed to:

**17 The Beeches,
Brookfield,
Johnstone
PA5 8UZ**

13.5 Any notice to the Company shall be addressed to:

**The Managing Director
Dawn Homes Limited
220 West George Street
Glasgow
G2 2PG**

Fax No. [REDACTED]

13.6 Any notice to the Assignees shall be addressed to:

**Holmes Mackillop Limited
35 William Street
Johnstone PA5 8DR**

14 Other Security

Each of the Bank and the Assignees shall be entitled at any time at its discretion and without consulting the other parties hereto to transact and deal with any other securities or guarantees of any kind that may be held by It in respect of the Company's obligations to It and may sell, dispose of or realise such other securities in any order which It may determine and this Agreement shall remain in full force and effect notwithstanding such transactions or dealings.

15 Negative Pledge

The Company shall not grant any further fixed or floating charges over all or any of its Assets including its heritable, real or leasehold property without the written consent of the Bank and shall not grant any further fixed charges over the Property without the written consent of the Assignees.

16 Separate Provisions

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

17 Governing Law

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

18 Testing Clause

This document is executed as follows:


signature of witness

Stephen Williamson
full name of above (print)


signature of JOHN CRAIG

JOHN CRAIG
full name of above (print)

1st March, 2019
date of signing

Brookefield
place of signing


signature of witness

Stephen Williamson
full name of above (print)


signature of Anne Craig

ANNE CRAIG
full name of above (print)


1st March, 2019
date of signing

Brookefield
place of signing


signature of witness

JOHN GILBERT
full name of above (print)

1 WEST REGENT ST
GLASGOW
G2 1AN
address of witness


signature of Director of Dawn Homes Limited

MARTIN RONALD EGAN
full name of above (print)

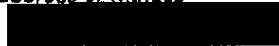
10/4/19
date of signing

GILBERT
place of signing

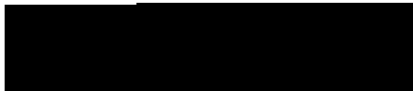

signature of witness

NICOLA HALLIDAY
full name of above (print)

OMS CAMERON MCKENNA NABARRO OLWANKU LP
SALTIRE COURT, 20 CASTLE TERRACE
EDINBURGH EH1 2EN
address of witness


signature of witness


Deborah Jane McPhail
full name of above (print)


signature of witness

Ian Edward Whybrow
full name of above (print)


signature of witness

Steven McCormick
full name of above (print)


signature of Bank Authorised Signatory

STEVEN KERR
full name of above (print)

23 April 2019
date of signing

Edinburgh
place of signing


signature of ISOBEL STIRLING

ISOBEL STIRLING
full name of above (print)

18th March, 2019
date of signing

Troon
place of signing


signature of HELEN GAUGHAN

HELEN GAUGHAN
full name of above (print)

16th March, 2019
date of signing

Cambridge
place of signing


signature of ALASDAIR JAMES CRAIG

ALASDAIR JAMES CRAIG
full name of above (print)

20th March, 2019
date of signing

Glasgow
place of signing