

# M

COMPANIES FORM No. 410(Scot)

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

A fee of £10 is payable to Companies House in  
respect of each register entry for a mortgage or  
charge

CHFP025

Please do not  
write in this  
margin

Pursuant to section 410 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 6)

For official use

Company number

1710

SC097757

Name of company

\* Aitken Campbell & Company Limited (the "Company")

Date of creation of the charge (note 1)

20 November 2001

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

Security Deed (the "Deed")

Amount secured by the charge

Please see paper apart.

Names and addresses of the persons entitled to the charge

The Royal Bank of Scotland plc, 36 St Andrew Square, Edinburgh, EH2 2YB (the  
"Bank")

Presentor's name address telephone  
number and reference (if any):

McGrigor Donald  
Princes Exchange  
1 Earl Grey Street  
EDINBURGH  
EH3 9AQ aitken.lfd  
KAW/TXM/IAM/00005R.001567

For official use  
Charges Section

Post room

SCT SRYWW66L 1476  
COMPANIES HOUSE 29/11/01

Short particulars of all the property charged.

Please do not  
write in  
this margin

Please see paper apart.

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)

Please see paper apart.

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

N/A

A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)

Signed

*M. G. Donald*

Date

29.11.01

On behalf of [company] [chargee]†

### Notes

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

† delete as  
appropriate

**Aitken Campbell & Company Limited**  
**(company number SC097757)**

**Paper apart to Form 410**

**Amount secured by the Charge**

The Company covenants with the Bank that it will duly and punctually pay or discharge to the Bank all debts, obligation and liabilities whatsoever now and from time to time hereafter (whether before or after the service of a Default Notice) due, owing or incurred by the Company to the Bank (whether solely or jointly, or jointly and severally, with another or others, and whether as principal or surety, and whether actual or contingent, present or future) including (whether before or after any judgement) all interest, costs and other charges whatsoever and including, without limitation, any such debts, obligations and liabilities which arise in connection with:

- (i) the Facility Agreement and/or the Deed; or
- (ii) the making of any Assured Payment under/or RTGS Payments by the Bank for the account of the Company; or
- (iii) any transfer of stock to the Company by means of CREST; or
- (iv) any transfer of stock to the Company by means of CREST, whether the Company is acting for itself or on behalf of a system-beneficiary; or
- (v) any transfer by a system-beneficiary to the Company, as system-beneficiary, by means of CREST of the first system-beneficiary's interest in stock held by a relevant nominee where the relevant nominee will continue to hold the stock on behalf of the Company; or
- (vi) any agreement to make a transfer of the kind specified in paragraphs (iv) or (v) above; or
- (vii) any issue of stock to the Company by means of CREST, whether the Company is acting for itself or on behalf of a system-beneficiary;

Whether such debts, money, obligations or liabilities are incurred by the Company on its own account or on behalf of a system-beneficiary

Notwithstanding that the Bank may permit the Company:

- (a) to participate in any auto-transfer, composite account netting or other cash management system with the Bank (a "**Cash Management Arrangement**") whereby credit and debit balances on the Controlled Accounts will (or may) be transferred to the credit or debit of an account within the Cash Management Arrangement or any other account in the name of the Company or another Group Company (a "**Group Account**"); or
- (b) to transfer amounts standing to the debit or credit of its Cash Memorandum Account direct to a Group Account (which term for the purposes set out below and

in this sub-clause (b), shall include the Controlled Account(s) and any account entries on or made to or from such Controlled Account(s);

the Company shall nevertheless remain liable to the Bank for the full amount of what would have been the aggregate debit balance (if any) on the Controlled Accounts or otherwise comprised within the Secured Amounts at the close of business on each day if the Cash Management Arrangement had not been entered into or implemented or if such transfers had been made from the Cash Memorandum Account to a Controlled Account and retained in it. The presumption of appropriation known as the Rule in Clayton's Case shall not apply, as between the Company and the Bank, in relation to amounts so debited or credited to a Group Account. Such transfers of debit or credit balances made to a Group Account shall be conditional until the Bank is satisfied that all liabilities of the Company to the Bank represented by any debit balance so transferred and all liabilities (if any) subsequently arising on the Controlled Accounts will be unconditionally paid in full on the relevant day out of cleared same day funds and, to the extent that the Bank is not so satisfied, such transfers may be wholly or partly reversed or redirected by the Bank (if it thinks fit) at any time to the debit or credit (as the case may be) of the relevant Controlled Account.

These obligations, money, liabilities and debts (whether or not appearing on the Controlled Accounts) are the "Secured Amounts" and references to the "Secured Amounts" shall include references to any of them.

Capitalised and other defined terms are defined below.

#### **Short particulars of all the property charged**

As continuing security for the payment or discharge of the Secured Amounts, the Company with full title guarantee hereby charges to the Bank:

- 1 by way of first fixed charge:
  - 1.1 all sums and payments now and from time to time hereafter receivable by or for the account of the Company by reason or in respect of any transfer or debit of, or agreement to transfer or debit, stock from any eligible stock account of or in the name of or otherwise referable to the Company in CREST or of any transfer by the Company of any of its right, title or interest to or in stock represented or to be represented by any credit balance for the time being on any such stock account in CREST, together with all rights and interests in such sums and payments; and
  - 1.2 all sums and payments from time to time hereafter receivable by or for the account of the Company by reason of or in respect of the closing out or liquidation of any unsettled contract relating to any stocks in CREST; and
  - 1.3 all right, title and interest of the Company to or in all money now or at any time hereafter standing to the credit of the Controlled Accounts, together with all rights relating or attaching thereto, including interest accruing thereon; and
  - 1.4 all right, (including property rights) title and interest of the Company to or in all securities now or at any time hereafter held in each Escrow Account, together with all rights relating or attached thereto; or any sum or benefit deriving from stock which is no longer in an uncertificated form, whether by reason of the Company (or any person holding stock as nominee for or on behalf of the Company) having become a former system-member of CREST, or such stock being converted into certificated form at the request of the Company, the Bank or any Relevant Person or otherwise, save to the extent that such stock derives from an excluded stock account; and
- 2 by way of first floating charge:

- 2.1 all eligible stock held by, or on behalf of or for the account of, the Company in CREST;
- 2.2 all and any property, property rights or interest of the Company in, or rights of the Company to, eligible stock in CREST, including (without limitation) interests of the kinds specified in Regulations 25(1)(a) and 25(2)(a) of the Regulations;
- 2.3 all and any sums or other benefits due or becoming due to the Company or its nominee by reason of its holding of or entitlement to stock in CREST which at the time of the sums or benefits becoming due was eligible stock in CREST, including, without limitation, sums or benefits due or becoming due by way of repayment, bonus, allotment, dividend, interest, preference, redemption or conversion or accruing or offered in respect of eligible stock in CREST in which the Company has an interest;
- 2.4 all and any stock or rights (including property rights), title or interest of the Company in, or any sum or benefit deriving from, stock which is no longer in an uncertified form, whether by reason of the Company (or any person holding stock for or on behalf of the Company) having become a former system-member of CREST, or such stock being converted into certificated form at the request of the Company, the Bank or any Relevant Person or otherwise, save to the extent that such stock derives from an excluded stock account or is otherwise excluded stock; and
- 2.5 all and any right, title and interest of the Company in any of the assets or property described in paragraph 1 above;

except in each case to the extent that such assets, property, stock, sums or benefits are effectively charged to the Bank by way of a fixed charge under the Deed.

It is agreed and declared (for the avoidance of doubt) that the charges contained in paragraphs 1 and 2 shall apply to all sums and payments and to all rights, title and interests of the Company referable to stock for which Assured Payment Obligations and/or RTGS Payment Obligations have been settled or are due to be settled by the Bank under the facility made available pursuant to the Facility Agreement, even if such facility is utilised by the Company for a purpose which is not permitted by the Facility Agreement.

Capitalised and other defined terms are defined below.

## **Ranking provision**

- 1 Except as otherwise expressly agreed in writing by the Bank, the Company further covenants with the Bank not to create or permit to subsist any Security Interest (except those contained in the existing Security Deeds and in the Deed) affecting any of the Charged Property.

In the Form 410 and this Paper Apart, the following expressions shall have the following meanings:

**"Assured Payment Obligation"** means an obligation of a Settlement Bank arising pursuant to the relevant Assured Payment Agreement or the relevant Settlement Bank Agreement and **"Assured Payment"** shall be construed accordingly;

**"Assured Payment Agreement"** means any agreement for the time being in force between CRESTCo and each relevant Settlement Bank, which contains the terms and conditions governing the relationship between such Settlement Banks as a result of their admission to settlement bank status in respect of the Designated Currency specified therein;

**"Authorised CREST Sponsor"** means the Bank in its capacity as CREST sponsor of the Company, or any person appointed by the Bank as CREST sponsor of the Company, pursuant to Clause 15.2 of the Deed;

**"Business Day"** means a day on which the Bank is ordinarily open to provide services of the kind contemplated in the Deed and also on which the CREST Service is fully open and operational;

**"Cash Memorandum Account"** means an account maintained by CRESTCo in the name of a system-member which records the cumulative (net) balance at any time in the course of a Settlement Day of Assured Payment Obligations due to or from and/or RTGS Payment Obligations paid by or received from a Settlement Bank (in its capacity as Settlement Bank for the relevant system-member) in the relevant Designated Currency;

**"Charged Property"** means the property, assets, rights, receivables and benefits of the Company which are for the time being comprised in or subject to the Security Interests constituted by the Deed, and references to the Charged Property include references to any part of it;

**"Controlled Accounts"** means the accounts maintained by the Company with the Bank for the time being designated for use in connection with the Facility Agreement or any one or more of them and includes (unless the context otherwise requires) any additional or substitute account maintained by the Company with the Bank from time to time specified as being a **"Controlled Account"** or a "settlement account" for the purposes of the Deed or any other account which is not so designated but is referable to Debts and/or Assured Payments and/or RTGS Payments received by the Bank for the account of the Company (in each case as re-numbered or redesignated from time to time);

**"CREST"** means the computer-based system and procedures established by CRESTCo to enable title to units of stock to be evidenced and transferred without a written instrument and to facilitate supplementary and incidental matters;

**"CRESTCo"** means CRESTCo Limited incorporated in England and Wales under number 2878738, acting as Operator of CREST as a relevant system under the Regulations whose Registered office is at 33 Cannon Street, London, EC4M 5SB;

**"CREST Manual"** means the document entitled "CREST Reference Manual" relating to the operation of CREST issued by CRESTCo;

**"CREST Member"** means a person who has been admitted by CRESTCo as a system-member of CREST and (unless the context otherwise requires) includes a CREST sponsored member;

**"CREST Registrar"** means a person who has been admitted by CRESTCo as a system-participant to carry out the functions of a registrar and/or receiving agent;

**"CREST RTGS Payment Agreement"** means an agreement between CRESTCo and each Settlement Bank, which governs the relationships of each Settlement Bank with other Settlement Banks and CRESTCo as a result of its admission as a CREST Settlement Bank in the CREST relevant systems in respect of each RTGS Currency;

**"Debts"** means all sums and payments referred to in Clause 3.1(a), (b) and (c) of the Deed;

**"Default Notice"** means a notice served by the Bank under Clause 7 (Default) of the Deed declaring all or any part of the Secured Amounts to be immediately due and payable;

**"Designated Currency"** means a currency for the time being specified as such in the Facility Agreement;

**"eligible stock"** means stock (which is not by Bank side letter excluded stock or stock accounts) represented by entries on one or more eligible stock accounts;

**"eligible stock account"** means a stock account which is not an excluded stock account;

**"Escrow Account"** means an escrow account in CREST in the Company's name or otherwise referable to the Company (the operating procedures for which permit only the Bank or its Escrow Agent to give instructions to CRESTCo in respect of Charged Property held in such escrow account);

**"Escrow Agent"** means the Bank (or any person appointed by the Bank to act) as escrow agent within CREST in relation to an Escrow Account;

**"Euro" or "euro"** means the single currency of Participating Member States of the European Union;

**"excluded stock"** means stock which, or any category of which, the Bank has expressly agreed in writing shall be excluded from the charges contained in this Deed;

**"excluded stock accounts"** means the stock accounts maintained by the Company with CREST or any one or more of them and includes (unless the context otherwise requires) any additional or substitute account maintained by the Company with CREST which the Company and the Bank may from time to time agree in writing with the Company shall be treated as an **"excluded stock account"** for the purposes of the Deed (in each case as re-numbered or redesignated from time to time);

**"existing Security Deeds"** means all security deeds (and, if applicable, supplemental security deeds) created by the Company in favour of the Bank prior to the date of the Deed in order to secure the liabilities of the Company as a member or sponsored member of CREST to the Bank as a Settlement Bank;

**"Facility Agreement"** means the Settlement Bank Facility Agreement(s) for the time being in force between the Bank and the Company under which the Bank agrees to act as Settlement Bank for the Company for the purposes set out in the facility letter(s) addressed by the Bank to the Company together with the accompanying terms and conditions (including the schedules) and form of acceptance and any other documents or agreements referred to therein and as the same may be amended, varied, renewed, replaced or extended in accordance with its terms;

**"Group Company"** means any undertaking which is in relation to the Company a group undertaking (as those expression are defined in the Companies Act 1985);

**"Membership Agreement"** means the agreement(s) for the time being in force between the Company and CRESTCo under which the Company has been admitted as a system-member of CREST;

**"Non Charged Property"** means the property, assets, rights, receivables and benefits of the Company which are not for the time being comprised in or subject to the Security Interests constituted by this Deed and references to Non Charged Property include references to any part of it;

**"Pounds Sterling"** means the lawful currency of United Kingdom;

**"Receiver"** means any Receiver appointed by the Bank under the Deed or the Bank's statutory powers, and includes more than one such Receiver and any successor or replacement Receiver;

**"Regulations"** means the Uncertified Securities Regulations 1995 (SI 1995 No.3272), the Uncertified Securities Regulations 2001 and such other regulations made under Section 207 of the Companies Act 1989 as are applicable to CRESTCo and/or the CREST relevant system and are for the time being in force;

**"Relevant Persons"** means the Authorised CREST Sponsor, the Escrow Agent, the Receiver, any accountant or other person appointed under Clause 10.1 of the Deed and any person appointed to act as substitute attorney or delegate under Clause 15.2 of the Deed and (unless the context otherwise requires) includes each or any of them and **"Relevant Person"** shall be construed accordingly;

**"RTGS Currency"** means either or both of Pounds Sterling or Euro;

**"RTGS Payment Obligation"** means an obligation of the Bank to pay an amount of Pounds Sterling or Euros to another Settlement Bank under the applicable CREST RTGS Payment Agreement or the CREST Settlement Bank Agreement or, as the context may require, a corresponding obligation by another Settlement Bank to pay Pounds Sterling or Euros in favour of the Bank under the applicable CREST RTGS Payment Agreement and an agreement between that Settlement Bank and CRESTCo in terms similar to the CREST Settlement Bank Agreement, and **"RTGS Payment"** shall be construed accordingly;

**"Security Interest"** means:

- (a) any mortgage, charge, pledge, assignment (whether or not expressed to be by way of security), hypothecation, lien, encumbrance or other priority or security interest whatsoever, howsoever created or arising;
- (b) any deferred purchase, title retention, trust, sale-and-repurchase, sale-and-leaseback, hold back or "flawed asset" arrangement or right of set-off;
- (c) any other agreement or arrangement whatsoever having the same or a similar commercial or economic effect as security; and
- (d) any agreement for any of the foregoing;

**"Settlement Bank"** means, in respect of any Designated Currency, a bank that has contracted with CRESTCo and the other Settlement Banks to make and receive Assured Payments and/or RTGS Payments for the account of CREST Members and CREST Registrars and continues so to act;



**"Settlement Bank Agreement"** means the agreement(s) for the time being in force between a Settlement Bank and CRESTCo which contains the terms and conditions governing the relationship between CRESTCo and such Settlement Bank as a result of its admission to settlement bank status in respect of one or more Designated Currencies;

**"Settlement Day"** means a Business Day on which Assured Payment Obligations and/or RTGS payment Obligations arising on that day fall to be settled in accordance with the provisions of the CREST Manual;

**"stock"** means shares, stocks, debentures debenture stock, UK government securities and (without limitation) any other securities and investments of any description or any of them (including, without limitation, all and any uncertified units of any securities (as defined in the Regulations)) and shall include units (whether in uncertificated or certificated form) of, and interests in, any of them but, for the purpose of Clause 3.2 (Creation of security), the expression **"stock"** shall not include any excluded stock;

**"stock account"** means a stock account maintained within the CREST relevant system in relation to each class of security held by a CREST member as described in the CREST Manual;

**FILE COPY**



**CERTIFICATE OF THE REGISTRATION  
OF A CHARGE**

Company number 97757

I hereby certify that a charge created by

AITKEN CAMPBELL & COMPANY LIMITED

on 20 NOVEMBER 2001

for securing

ALL SUMS DUE IN CONNECTION WITH THE FACILITY AGREEMENT

in favour of THE ROYAL BANK OF SCOTLAND plc

was delivered pursuant to section 410 of the Companies Act, 1985,  
on 29 NOVEMBER 2001

Given at Companies House, Edinburgh  
30 NOVEMBER 2001



**C O M P A N I E S   H O U S E**



## REGISTER of Charges, Alterations to Charges,

(1) Date of Registration	(2) Serial Number of Document on File	(3) Date of Creation of each Charge and Description thereof	(4) Date of the aquisition of the Property	(5) Amount secured by the Charge  £	(6) Short Particulars of the Property Charged	(7) Names of the Persons entitled to the Charge
29/11/2001		20/11/01 FLOATING CHARGE		ALL SUMS DUE IN CONNECTION WITH THE FACILITY AGREEMENT	FIXED CHARGE OVER ALL SUMS AND PAYMENTS RELATING TO ANY STOCKS IN CREST; ALL RIGHT TITLE AND INTEREST IN THE MONEY STANDING TO THE CREDIT OF THE CONTROLLED ACCOUNTS; ALL RIGHT(INCLUDING PROPERTY RIGHTS) TITLE AND INTEREST IN ALL SECURITIES HELD IN EACH ESCROW ACCOUNT ; FLOATING CHARGE OVER ALL ELIGIBLE STOCK HELD BY THE COMPANY IN CREST; ALL PROPERTY RIGHTS OR INTESRT IN CREST; ALL SUMS AND BENEFITS BECOMING DUE BY REASON OF THE ENTITLEMENT TO STOCK IN CREST...SEE MICROFICHE FOR FULL DETAILS	THE ROYAL BANK OF SCOTLAND plc
SECURITY DEED						

# Memoranda of Satisfaction and Appointments etc. of Receivers

N.B. Searchers may find it desirable to refer to the documents mentioned in column (2) for more detailed particulars

COMPANY: SC097757 CHARGE: 10

(8) In the case of a floating charge, a statement of the provisions, if any, prohibiting or restricting the creation by the company of any fixed security or any other floating charge having priority over, or ranking <i>pari passu</i> with the floating charge.	(9) In the case of a floating charge, a statement of 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 the subject of the floating charge or any part of it.	(10) Amount or rate per cent of the Commission Allowance or discount	(11) Memoranda of Satisfaction	(12) Receiver		
				Name	Date of Appointment	Date of Ceasing to act
COMPANY ARE EXPRESSLY PROHIBITED FROM CREATING SUBSEQUENT FIXED SECURITY HAVING PRIORITY OVER OR RANKING EQUALLY WITH THE FLOATING CHARGE						