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COMPANIES FORM No. 466(Scot)

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

466

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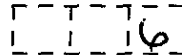
Pursuant to section 410 and 466 of the Companies Act 1985

To the Registrar of Companies

For official use

Company number

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



SC195923

Name of company

* Loch Duart Limited (the "Company")

* insert full name of company

Date of creation of the charge (note 1)

2 May 2000

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered

Floating Charge (the "Trouw Floating Charge")

Names of the persons entitled to the charge

Trouw (UK) Limited (Company Number 291738), having its Registered Office at Minsal Works, Wincham, Northwich, Cheshire, CW9 6DF and its successors and assignees whomsoever ("Trouw").

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 (the "Assets").

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

Shepherd & Wedderburn WS
DX 553049 Edinburgh - 18
T1135.2/AMK/SMXS

For official Use
Charges Section

Post room



SCT S8GULRRD 0201
COMPANIES HOUSE 29/06/00

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

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See Paper Apart

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

Date(s) of execution of the instrument of alteration

12 May, 15 May, 23 May, 7 June, 13 June and 16 June, all 2000.

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 the Assets including its heritable, real or leasehold property without the prior written consent of HSBC or the Postponed Creditors (as defined in the Paper Apart to this Form M466).

Short particulars of any property released from the floating charge

Not applicable

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

Not applicable.

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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

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

See Paper Apart

Continuation of the statement of 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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Please complete legibly, preferably in black type, or bold block lettering

Signed Shepherd & Associates Date 29-6-2000
On behalf of [~~company~~] chargee] †

† delete as appropriate

Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. 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.

LOCH DUART LIMITED

COMPANY NUMBER SC195923

This is the Paper Apart referred to in the foregoing Form M466

The definitions that shall apply to the foregoing Form M466 and this Paper Apart are given in paragraphs 1 and 2 (below).

1. Names and addresses of the persons who have executed the instrument of alteration

- 1.1 HSBC Bank plc (Company Number 14259) and having its Registered Office at Poultry, London, EC2P 2BX ("**HSBC**");
- 1.2 HSBC Invoice Finance (UK) Limited (Company Number 759657) and having its Registered Office at Farncombe Road, Worthing, West Sussex, BN11 2BW ("**HSBC IFL**");
- 1.3 Alan John Balfour, residing at Carpow House, Newburgh, Fife ("**AJB**");
- 1.4 Dr Elizabeth Jean Balfour, CBE, residing at Kirkforthar House, Markinch, Glenrothes, Fife, KY7 6LS ("**EJB**");
- 1.5 Trouw (UK) Limited (Company Number 291738) and having its Registered Office at Minsal Works, Wincham, Northwich, Cheshire, CW9 6DF ("**Trouw**");
- 1.6 Gerald Cavendish, Sixth Duke of Westminster, c/o The Grosvenor Estate, Eaton Estate Office, Eccleston, Chester, CH4 9ET ("**Grosvenor**"); and
- 1.7 Loch Duart Limited (Company Number SC195923) and having its Registered Office at 48 Castle Street, Edinburgh, EH2 3LX (the "**Company**").

2. Definitions

In the foregoing Form M466 and in this Paper Apart:

- 2.1 "**AJB Debt**" means the whole sums owing by the Company to AJB in terms of the AJB Loan Agreement and the Guarantee, together with interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 2.2 "**AJB Floating Charge**" means the floating charge granted by the Company in favour of AJB over the Assets dated 2 May 2000 and registered or to be registered with the Registrar of Companies in security for the AJB Debt;
- 2.3 "**AJB Loan Agreement**" means the loan agreement entered into or to be entered into between the Company and AJB relative to the loan made by AJB to the Company and the Guarantee;
- 2.4 "**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;
- 2.5 "**Debts**" means all the debts and other obligations, present, future and contingent, of any customer of the Company under any contract of sale and includes the associated rights in relation to each debt, namely, the Company's rights provided by or retained under the

contract of sale, the Company's rights to goods which are the subjects of a contract of sale where those goods remain in the Company's possession or have been returned to or repossessed by it, insurances, all negotiable and non-negotiable instruments, all securities, bonds, guarantees and indemnities and all the Company's rights to any ledger, computer or electronic data or document recording or evidencing a debt; and in the foregoing definition "**contract of sale**" means a contract by the Company for the hiring or supply of goods or the provision of services to a customer;

- 2.6 "**EJB Debt**" means the whole sums owing by the Company to EJB in terms of the EJB Loan Agreement and the Guarantee together with interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 2.7 "**EJB Floating Charge**" means the floating charge granted by the Company in favour of EJB over the Assets dated 2 May 2000 and registered or to be registered with the Registrar of Companies in security for the EJB Debt;
- 2.8 "**EJB Loan Agreement**" means the loan agreement entered into or to be entered into between the Company and EJB relative to the loan made by EJB to the Company and the Guarantee;
- 2.9 "**Grosvenor Debt**" means the whole sums paid to the Company in terms of Minute of Agreement entered into between the Settlement Trustees acting under the will of The Most Noble Hugh Richard Arthur, Duke of Westminster, GCVO, DSO, the Will Trustees acting under the will of the said the Most Noble Hugh Richard Arthur, Duke of Westminster, The Most Noble Gerald Cavendish, Sixth Duke of Westminster and the Company dated 26 August, 9 and 18 September all dates in the year 1999 in respect of the sea cage sites at Fanagmore, Eilean Ard and Eilean a Mhadaidh, together with any interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 2.10 "**Grosvenor Floating Charge**" means the Floating Charge granted by the Company in favour of Grosvenor over the Assets dated 2 May 2000 and registered or to be registered with the Registrar of Companies in security for the Grosvenor Debt;
- 2.11 "**Guarantee**" means the guarantee in respect of deferred consideration up to £460,000 relative to the purchase agreement entered into between the Company and Joseph Johnston & Sons Limited dated 26 August 1999;
- 2.12 "**HSBC Debt**" means all monies and liabilities which are due or to become due to HSBC by the Company whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to HSBC, whether such obligations exist now or arise in the future) together with interest on that amount and all commission, charges, fees, costs and expenses, arising or incurred in connection with it;
- 2.13 "**HSBC Floating Charge**" means the floating charge granted by the Company in favour of HSBC over the Assets dated 13 November 1999 and registered with the Registrar of Companies on 19 November 1999 in security for the HSBC Debt;
- 2.14 "**HSBC Priority Debt**" means the HSBC Debt not exceeding £850,000 in aggregate principal amount together with interest on that amount for a period not exceeding 12 months and all commission, charges, fees, costs and expenses arising or incurred in connection with it;

- 2.15 **"HSBC IFL Debt"** means all monies and liabilities which are due or to become due to HSBC IFL by the Company together with interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 2.16 **"HSBC IFL Floating Charge"** means the floating charge granted by the Company in favour of HSBC IFL over the Assets dated 6 December 1999 and registered with the Registrar of Companies on 14 December 1999 in security for the HSBC IFL Debt;
- 2.17 **"HSBC Standard Security"** means the Standard Security granted by the Company in favour of HSBC over the property dated 3 May 2000 and recorded or to be recorded in the General Register of Sasines for the County of Sutherland in security for the HSBC Debt;
- 2.18 **"Postponed Creditors"** means all or any of HSBC IFL, EJB, AJB, Trouw and Grosvenor and **"Postponed Creditor"** means any one of them;
- 2.19 **"Postponed Creditors' Floating Charges"** means the HSBC IFL Floating Charge, the AJB Floating Charge, the EJB Floating Charge, the Trouw Floating Charge and the Grosvenor Floating Charge;
- 2.20 **"Preferential Payments"** means payments to which a preference attaches in terms of Sections 175 and 386 of the Insolvency Act 1986;
- 2.21 **"Property"** means the properties listed in paragraph 5 and more particularly described in paragraph 6 of this Paper Apart;
- 2.22 **"Purchase Agreement"** means the agreement for the purchase of debts between the Company and HSBC IFL dated 6 December 1999 and having a commencement date of 7 December 1999 as varied, supplemented, replaced or novated from time to time;
- 2.23 **"Trouw Debt"** means the whole sums owing by the Company to Trouw whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to Trouw, whether such obligations exist now or arise in the future) together with interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it; and
- 2.24 **"Trouw Floating Charge"** means the floating charge granted by the Company in favour of Trouw over the Assets dated 2 May 2000 and registered with the Registrar of Companies on 15 May 2000 in security for the Trouw Debt.
3. **Statement of the provisions 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**
- 3.1 The HSBC IFL Floating Charge shall, to the extent of the HSBC IFL Debt, rank first on the Debts.
- 3.2 Subject to paragraph 3.1 above, HSBC, the Postponed Creditors and the Company agree that the HSBC Standard Security, HSBC Floating Charge and the Postponed Creditors' Floating Charges shall rank in the following order of priority:
- 3.2.1 the HSBC Standard Security shall to the extent of the HSBC Priority Debt, rank first;

- 3.2.2 the HSBC Floating Charge shall, to the extent of the HSBC Priority Debt less any sums recovered by HSBC under paragraph 3.2.1 above, rank second;
- 3.2.3 the Trouw Floating Charge shall, to the extent of the Trouw Debt, rank third;
- 3.2.4 the AJB Floating Charge and the EJB Floating Charge shall, to the extent of the AJB Debt and the EJB Debt, respectively, rank fourth *pari passu pro rata*;
- 3.2.5 the Grosvenor Floating Charge shall, to the extent of the Grosvenor Debt, rank fifth;
- 3.2.6 the HSBC IFL Floating Charge shall, to the extent of the balance of the HSBC IFL Debt, rank sixth; and
- 3.2.7 the HSBC Floating Charge shall, to the extent of the balance of the HSBC Debt rank last.

4. Preferential Payments

The ranking provisions set out in paragraph 3 above are without prejudice to the right of HSBC to receive Preferential Payments provided that any Preferential Payments payable shall not be counted towards repayment of the HSBC Debt for the purposes of calculating the HSBC Priority Debt.

5. List of properties comprised in the Property

The properties comprised in the Property are:

- 5.1 7 Park Terrace, Scourie;
- 5.2 Campsite Yard, Scourie;
- 5.3 ground, buildings and access road at Fanagmore;
- 5.4 Whinhill, Moffat Square, Scourie;
- 5.5 1 Handa Terrace, Scourie;
- 5.6 Le Chardon, Scourie;
- 5.7 Fanagmore House, Scourie; and
- 5.8 Trefoil, Foindle, Scourie.

6. Particular descriptions of the properties listed in paragraph 5 above

6.1 7 Park Terrace, Scourie

ALL and WHOLE that area or piece of ground in the Village of Scourie, Parish of Eddrachilles and former County of Sutherland and now in the Sutherland District of the Highland Region and for the purpose of registration of writs in the County of Sutherland extending to 432 square metres of thereby Metric Measure being the area of ground more particularly described in, disposed by and shown delineated in black and coloured pink on the plan annexed and signed as relative to the Feu Disposition granted by Sutherland District Council in favour of John Angus Thomson and Mrs Joan Mackay or Thomson

dated 7 April 1989 and recorded in the Division of the General Register of Sasines for the County of Sutherland on 19 June 1989.

6.2 *Campsite Yard, Scourie*

ALL and WHOLE that area or piece of ground extending to 2604 square metres or thereby in the said parish and former County being the subjects more particularly described in, in feu farm disposed by and shown delineated in black and coloured red together with the servitude right of access and egress therefrom and thereto along the access roadway shown coloured blue on the plan annexed and subscribed as relative to Feu Disposition by John Charles Balfour and Elizabeth Jean Drew or Balfour in favour of Joseph Johnston & Sons Limited dated 8 December 1978 and recorded in the said Division of the General Register of Sasines on 28 December 1978; Together with a heritable and irredeemable servitude right of access to and egress from the subjects for both foot and vehicular traffic by irredeemable servitude right of access to and egress from the subjects for both foot and vehicular traffic by and along the access roadway leading from the public road shown coloured blue on the plan annexed to the said Feu Disposition by John Charles Balfour and Another in favour of Joseph Johnston & Sons Limited dated and recorded as aforesaid and a heritable and irredeemable servitude right and tolerance to have and to maintain in so far as may be necessary through the adjoining lands (First) a water supply pipe along the existing route or along any other route which may be agreed and (Second) a drainage pipe or drainage pipes along such route or routes as may be agreed.

6.3 *1 Handa Terrace, Scourie*

ALL and WHOLE that area or piece of ground in the said Village, Parish and former County extending to 545 square metres or thereby Metric Measure lying to the north of Handa Terrace, Scourie being the subjects more particularly described in, in feu farm disposed by and delineated in black and coloured pink on the plan annexed and signed as relative to the Feu Disposition by Sutherland District Council in favour of James Thomson and Mrs Sarah Rose Thomson dated 7 February 1983 and recorded in the said Division of the General Register of Sasines on 28 February 1983.

6.4 *Whinhill, Moffat Square and Le Chardon, Scourie*

ALL and WHOLE that area or piece of ground in the said Village, Parish and former County extending to 1528.57 square metres or thereby being the subjects more particularly described in and disposed by Disposition by Sutherland District Council in favour of Joseph Johnston & Sons Limited dated 15 February 1989 and recorded in the said Division of the General Register of Sasines on 13 March 1989; Together with all rights of access thereto and therefrom.

6.5 *Fanagmore House and Ground, Buildings and Access Road at Fanagmore, Scourie*

ALL and WHOLE those two discontinuous areas of ground both lying in the Lands and Estate of Scourie in the said Parish and former County being the subjects more particularly described in disposed by and shown marked Plot 1 and Plot 2 together with the servitude right of access to and egress therefrom along the access roadway shown coloured blue on the plan annexed and subscribed as relative to Feu Disposition by John Charles Balfour and Dr Elizabeth Jean Drew on Balfour in favour of Joseph Johnston & Sons Limited dated 25 May 1987 and recorded in the said Division of the General Register of Sasines on 5 June 1987; Together with a heritable and irredeemable servitude right of access to and egress from the subjects for both foot and vehicular traffic along

and over the route shown coloured blue on the said plan annexed and subscribed as relative to the Feu Disposition by John Charles Balfour and Dr Elizabeth Jean Drew or Balfour in favour of Joseph Johnson & Sons Limited dated and recorded as aforesaid.

6.6 *Trefoil, Foindle, Scourie*

ALL and WHOLE that area of ground extending to 682.5 square metres or thereby sometime part of the croft known as No. 68 Foindlemore, Scourie lying in the said Parish and former County being the subjects outlined in red and having the approximate boundary measurements upon a plan annexed and signed as relative to Feu Disposition by John Charles Balfour and Dr Elizabeth Jean Drew or Balfour in favour of Mrs Caroline MacLeod dated 16 June 1998 and recorded in the said Division of the General Register of Sasines on 28 June 1988; Together with a right of access to and egress from the subjects along or over the access roadway shown coloured blue on the plan annexed and subscribed as relative to the said Feu Disposition by John Charles Balfour and Dr Elizabeth Jean Drew or Balfour in favour of Mrs Caroline MacLeod dated and recorded as aforesaid.

J&W.

FILE COPY



CERTIFICATE OF THE REGISTRATION OF AN ALTERATION TO A FLOATING CHARGE

Company number 195923

I hereby certify that particulars of an instrument of alteration dated
16 JUNE 2000

were delivered pursuant to section 410 of the Companies Act, 1985,
on 29 JUNE 2000.

The instrument relates to a charge created on 2 MAY 2000

by LOCH DUART LIMITED

in favour of TROUW (UK) LIMITED

for securing ALL SUMS DUE, OR TO BECOME DUE

Given at Companies House, Edinburgh
3 JULY 2000



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



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES