

# M

CHWP000

COMPANIES FORM No. 466(Scot)

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

# 466

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

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

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

For official use

Company number

2

SC307831

Name of company

\* Morrison & Mutch Property Investments (No. 2) Limited

\* insert full name  
of company

Date of creation of the charge (note 1)

~~9~~ and 14 May both 2007.

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

Floating Charge

Names of the persons entitled to the charge

Bank of Scotland plc  
The Mound  
Edinburgh

Short particulars of all the property charged

The whole of the property (including uncalled capital) which is or may be from time to time while this instrument is in force comprised in the company's property and undertaking;

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

Irwin Mitchell LLP  
123 Elderslie Street  
Glasgow G3 7AR  
Ref: SCOT19/3065/UM

For official use (02/06)

Charges S

WEDNESDAY



\*S7NXJIRB\*

SCT

31/03/2010

1538

COMPANIES HOUSE

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

(1) Bank of Scotland plc, The Mound, Edinburgh;  
(2) Heineken UK Limited, 2-4 Broadway Park, South Gyle Broadway, Edinburgh, EH12 9JZ;  
(3) Morrison & Mutch Property Investment (No. 2) Limited, 56 Torridon Road, Broughty Ferry, Dundee, DD5 3JH

*Please do not  
write in  
this margin*

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

Date(s) of execution of the instrument of alteration

12 February, 12 and 15 March all 2010

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 BOS and the Postponed Creditor

Short particulars of any property released from the floating charge

N/A

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

N/A

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 do not  
write in  
this margin*

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

See paper Apart

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*

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

Signed John M. Sella Date 15/3/2010  
On behalf of [company] [chargee]†

#### 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.
5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House**.
6. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh or LP - 4 Edinburgh 2

† delete as  
appropriate

## Paper Apart for Form 466

### Definitions

In the interpretation of this Agreement:-

- 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;
- 2 "BoS Debt" means all or any monies and liabilities which shall for the time being (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to BoS by the Company, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not BoS shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which BoS 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 BoS rates and practice as well after as before any demand made or decree obtained;
- 3 "BoS Fixed Security" means the standard securities over the Properties to be granted by the Company in favour of BoS about to be registered in either the Land Register of Scotland or the General Register of Sasines in security for the BoS Debt;
- 4 "BoS Floating Charge" means the bond and floating charge granted by the Company in favour of BoS over the Assets registered with the Registrar of Companies on 15 May 2007 in security for the BoS Debt;
- 5 "BoS Priority Debt" means the BoS' Debt not exceeding One Million One Hundred Thousand Pounds (£1,100,000) Sterling or such greater amount, if any, as shall be agreed in writing between BoS and the Postponed Creditor, together with 12 months interest on that amount and all commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 6 "BoS Securities" means the BoS Fixed Security and the BoS Floating Charge;
- 7 Postponed Debt" means all sums due and to become due to the Postponed Creditor by the Company whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to the Postponed Creditor, whether such obligations exist now or arise in the future) together with interest and charges, interest on them and all commission, charges, fees, costs and expenses arising or incurred in connection with those sums;
- 8 "Postponed Fixed Security" means the standard securities over the Properties granted by the Company in favour of the Postponed Creditor about to be registered in either the Land Register of Scotland or the General Register of Sasines in security for the Postponed Debt;
- 9 "Postponed Floating Charge" means the bond and floating charge granted by the Company in favour of the Postponed Creditor (therein named Scottish & Newcastle (UK) Limited, their name having changed conform to Certificate of Incorporation on Change of Name dated 20 November 2009) over the Assets registered with the Registrar of Companies on 15 May 2007 in security for the Postponed Debt;
- 10 "Postponed Securities" means the Postponed Fixed Security and the Postponed Floating Charge;
- 11 "Preferential Payments" means payments to which a preference attaches in terms of Sections 175 and 386 of the Insolvency Act 1986;
- 12 "Property One" means; ALL and WHOLE the ground floor public house premises known as and forming The Anchor Bar, Sixteen and Eighteen to Twenty Bank Street, West Port, Arbroath DD11 1RH under exception of the first floor flatted dwellinghouse above the said public house which subjects form part and portion of the subjects registered in the Land Register of Scotland under Title Number ANG12494; Together with by way of inclusion and not exception (One) the fixtures and fittings therein and thereon the said subjects; (Two) all rights joint, common, mutual or otherwise pertaining to the said subjects; (Three) the parts and privileges effeiring thereto; (Four) the Company's whole right, title and interest present and future in and to the said subjects and others and (Five) the whole rights set out in the

Schedule annexed and executed as relative to the Disposition by Amountview Limited in favour of the Company registered in the Land Register of Scotland under Title Number ANG46493;

- 13 "Property Two" means; ALL and WHOLE the subjects known as and forming The Plough Inn, 1-5 Fisheracre, Arbroath, being the subjects registered in the Land Register of Scotland under Title Number ANG29096;
- 14 "Property Three" means; ALL and WHOLE the ground floor public house premises known as and forming The Anchor Inn, Two hundred and nine Stirling Street, Dunipace, Denny under exception of the first floor flatted dwellinghouse above the said public house which subjects form part and portion of the subjects registered in the Land Register of Scotland under Title Number STG38343; Together with by way of inclusion and not exception (One) the fixtures and fittings therein and thereon the said subjects; (Two) all rights joint, common, mutual or otherwise pertaining to the said subjects; (Three) the parts and privileges effeiring thereto; (Four) the Company's whole right title, and interest, present and future in and to the said subjects and others and (Five) the whole rights set out in the Schedule annexed and executed as relative to the Disposition by Amountview Limited in favour of the Company registered in the Land Register of Scotland under Title Number STG38343;
- 15 "Property Four" means; ALL and WHOLE the subjects known as and forming The Windsor Bar, 28 Albert Street, Dundee, being the subjects registered in the Land Register of Scotland under Title Number ANG18729;
- 16 "Property Five" means; ALL and WHOLE the ground and basement level public house and others known as and forming The Burns Bar, Ninety Five East High Street, Forfar being the subjects registered in the Land Register of Scotland under Title Number ANG46494;
- 17 "Property Six" means; ALL and WHOLE the subjects known as and forming Mutchies Bar, 199 East High Street, Forfar, being the subjects registered in the Land Register under Title Number ANG41428;
- 18 "Property Seven" means; ALL and WHOLE the Ground Floor Licensed Premises known as and forming The Royal Arch Bar, 32 High Street, Montrose in the former Royal Burgh of Montrose and County of Angus which together with the coal cellar and store pertaining thereto, the flat or dwellinghouse immediately above and areas of garden lying on or towards the west thereof and all common rights pertinents to others pertaining thereto are the subjects described in and disposed by the Disposition granted by John Murray's Trustees with consent therein mentioned in favour of James Aitken and Company (Falkirk) Limited dated the Second day of April and subsequent dates and recorded in the Division of the General Register of Sasines for the County of Angus on the Seventh day of October all in Nineteen Hundred and Fifty Eight; BUT EXCEPTING THEREFROM (PRIMO) ALL and WHOLE the said flat or dwellinghouse immediately above the said licensed premises and entering from the close or passageway situated at number Thirty Two to Thirty Four High Street, Montrose aforesaid being the lower of the two eastmost of three dwellinghouses in the tenement at number Thirty Two and Thirty Four High Street, Montrose aforesaid with all common rights, pertinents and other pertaining thereto being the subjects described in and disposed by the Disposition granted by Alan Peter Crichton and another in favour of themselves dated the Eighteenth day of December Nineteen Hundred and Eighty and recorded in the said Division of the General Register of Sasines on the Twenty Fourth day of February Nineteen Hundred and Eighty One; (SECUNDO) ALL and WHOLE the two areas of garden ground lying on or towards the west of the said licensed premises described in, inter alia disposed by and shown delineated and coloured pink and marked "garden ground" and "ground" respectively on the ground floor plan annexed and signed as relative to the said Disposition granted in favour of James Aitken and Company (Falkirk) Limited dated and recorded as aforesaid and (TERTIO) ALL and WHOLE the store and coal cellar lying on or towards the West of the said licensed premises described in, disposed by and delineated and coloured red on the plan annexed and executed as relative to the Disposition granted by John Duncan Philip in favour of himself dated the Eleventh and recorded in the said Division of the General Register of Sasines on the Sixteenth both days of April Nineteen Hundred and Ninety Three; which subjects are delineated and coloured red on the plan annexed and executed as

relative to the Disposition granted by John Duncan Philip in favour of Peter Cooper and Mrs Hazel Georgina Cooper dated the Eleventh and recorded in the said Division of the General Register of Sasines on the Sixteenth both days of April Nineteen Hundred and Ninety Three; Together with (by way of inclusion and not exception) (FIRST) the goodwill of the business so far as heritable carried on in the said licensed premises; (SECOND) All rights and rights in common pertaining to the said licensed premises specified in the said Disposition granted in favour of the said Peter Cooper and the said Mrs Hazel Georgina Cooper dated and recorded as aforesaid; Together also with the fittings and fixtures therein and thereon, the whole parts privileges and pertinents effeiring thereto and the whole right, title and interest, present and future of the Company in the said subjects and others

19 "Properties" means; Property One, Property Two, Property Three, Property Four, Property Five, Property Six and Property Seven.

20 "Securities" means the BoS Securities and the Postponed Securities;

21 "enforce" (and all derivations from it) means the taking of any of the following actions:-

- (1) the appointing of a receiver pursuant to or in respect of any of the Securities;
- (2) the exercising of a power of sale or otherwise utilising the rights given to a creditor under any of the Securities;
- (3) the suing for payment of any BoS Debt or the Postponed Debt;
- (4) the petitioning for an administration order; or
- (5) the exercising of any rights of set-off, retention, combination of accounts or similar right in respect of the BoS Debt or the Postponed Debt;

22 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;

23 References to:-

23.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;

23.2 "control" of any company shall be interpreted in accordance with Section 840 of the Income and Corporation Taxes Act 1988;

23.3 "including" shall not be construed as limiting the generality of the words preceding it;

23.4 any term or phrase defined in the Companies Act 1985 (as amended from time to time) shall bear the same meaning in this Agreement;

23.5 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;

23.6 "this Agreement" and references 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;

23.7 "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;

23.8 "any person" are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;

23.9 clause headings are for ease of reference only and are not to affect the interpretation of this Agreement.

1. Ranking of Securities

1.1 **BoS**, the Postponed Creditor and the Company agree that the sums secured or to be secured by the **BoS** Securities and the Postponed Securities shall rank in the following order of priority:

- 1.1.1 the **BoS** Fixed Security to the extent of the **BoS** Priority Debt; then
- 1.1.2 the Postponed Fixed Security to the extent of the Postponed Debt; then
- 1.1.3 the **BoS** Floating Charge to the extent of the **BoS** Priority Debt; then
- 1.1.4 the Postponed Floating Charge to the extent of the Postponed Debt.

1.2. The ranking and priority set out in Clause 1.1 shall take effect notwithstanding any of the following:-

- 1.2.1 the nature of the securities created by the **BoS** Securities and the Postponed Securities and the dates of execution and registration of them;
- 1.2.2 any provision contained in any of the Securities;
- 1.2.3 the date or dates on which moneys have been or may be advanced or become due, owing or payable under the **BoS** Securities and the Postponed Securities respectively;
- 1.2.4 any fluctuation from time to time in the amounts secured by the **BoS** Securities or the Postponed Securities including any reduction of those amounts to nil;
- 1.2.5 the existence of any credit balance on any current or other account of the Company with either **BoS** or the Postponed Creditor;
- 1.2.6 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;
- 1.2.7 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 **BoS** in respect of the **BoS** Debt or the Postponed Creditor in respect of the Postponed Debt or otherwise prior to enforcement;
- 1.2.8 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 **BoS** or the Postponed Creditor;
- 1.2.9 the sale or other disposal of any land or buildings or any interest in any land or buildings prior to enforcement;
- 1.2.10 any present or future mortgage or other charge granted by the Company to either **BoS** or the Postponed Creditor (other than the Securities) unless otherwise agreed in writing by **BoS** or the Postponed Creditor;
- 1.2.11 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.





**FILE COPY**

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

**COMPANY NO. 307831**

**CHARGE NO. 2**

**I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 15 MARCH 2010**

**WERE DELIVERED PURSUANT TO SECTION 878 OF THE  
COMPANIES ACT 2006  
ON 31 MARCH 2010**

**THE INSTRUMENT RELATES TO A CHARGE CREATED ON 14  
MAY 2007**

**BY MORRISON & MUTCH PROPERTY INVESTMENTS (NO. 2)  
LIMITED**

**IN FAVOUR OF  
THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND**

**FOR SECURING ALL SUMS DUE OR TO BECOME DUE**

**GIVEN AT COMPANIES HOUSE, EDINBURGH 1 APRIL 2010**



*Companies House*  
— for the record —



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**