

MG01

Particulars of a mortgage or charge

109 04 2/13



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LASERFORM

A fee is payable with this form.

We will not accept this form unless you send the fee.  
Please see 'How to pay' on the last page



**What this form is for**

You may use this form to register  
particulars of a mortgage or charge  
in England and Wales or Northern  
Ireland



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LD3

"L21L9Y43"

05/02/2013

#23

COMPANIES HOUSE

For more information, please  
visit the website at  
companieshouse.gov.uk

TUESDAY

1

**Company details**

Company number

0 2 0 3 5 3 1 5

Company name in full

Brake Bros Limited (the "**Company**")

For official use

**Filling in this form**

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

2

**Date of creation of charge**

Date of creation

29 01 2013

3

**Description**

Please give a description of the instrument (if any) creating or evidencing the  
charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

A mortgage dated 29 January 2013 between the Company and Barclays Bank  
PLC as security agent (the "**Security Agent**"), (the "**Mortgage**")

4

**Amount secured**

Please give us details of the amount secured by the mortgage or charge

Amount secured

Please see the attached continuation page.

**Continuation page**

Please use a continuation page if  
you need to enter more details

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## Particulars of a mortgage or charge

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### Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

**Continuation page**  
Please use a continuation page if you need to enter more details

Name

Barclays Bank PLC as Security Agent

Address

5 The North Colonnade, Canary Wharf, London

Postcode

E 1 4 4 B B

Name

Address

Postcode

6

### Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

**Continuation page**  
Please use a continuation page if you need to enter more details

Short particulars

Please see the attached continuation pages.

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## Particulars of a mortgage or charge

### 7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount

None

### 8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860) If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870)

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866) The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it Where a body corporate gives the verification, an officer of that body must sign it We will also accept a verified copy where section 867(2) applies (property situated in another part of UK)

### 9 Signature

Please sign the form here

Signature

Signature

X Clifford Chance LLP. X

This form must be signed by a person with an interest in the registration of the charge

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## Particulars of a mortgage or charge



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name **Melissa Oppenheim 70-40298782**

Company name **Clifford Chance LLP**

Address **10 Upper Bank Street**

Post town **London**

County/Region

Postcode **E 1 4 5 J J**

Country **United Kingdom**

DX **149120 Canary Wharf 3**

Telephone **020 7006 1000**



### Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☒ The company name and number match the information held on the public Register
- ☒ You have included the original deed with this form
- ☒ You have entered the date the charge was created
- ☒ You have supplied the description of the instrument
- ☒ You have given details of the amount secured by the mortgagee or chargee
- ☒ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☒ You have entered the short particulars of all the property mortgaged or charged
- ☒ You have signed the form
- ☒ You have enclosed the correct fee



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

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

Make cheques or postal orders payable to 'Companies House'



### Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below:

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland:**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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### Particulars of a mortgage or charge

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#### Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

4  
10

The Company covenants and undertakes with the Security Agent as security agent for the Secured Parties that it shall on demand of the Security Agent discharge all obligations which each Obligor may at any time have to the Security Agent (whether for its own account or as security agent for the Secured Parties) or any of the other Secured Parties under or pursuant to the Finance Documents (including the Debenture and the Mortgage) including any liability in respect of any further advances made under the Finance Documents, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity) and the Company shall pay to the Security Agent when due and payable every sum at any time owing, due or incurred by it to the Security Agent (whether for its own account or as security agent for the Secured Parties) or any of the other Secured Parties in respect of any such liabilities provided that neither such covenant or undertaking nor the security constituted by the Debenture or the Mortgage shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law (the "**Secured Obligations**")

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## Particulars of a mortgage or charge

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

#### **FIXED SECURITY**

Pursuant to the Mortgage, the Company charged with full title guarantee in favour of the Security Agent with the payment and discharge of the Secured Obligations, by way of first legal mortgage, the Mortgaged Property.

#### **FURTHER ASSURANCE**

##### **Further Assurance: General**

Pursuant to the Debenture, the further assurance clause 6 1 is incorporated into the Mortgage, such that

- 1 the covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out below; and
- 2 the Company shall promptly at its own cost enter into a Mortgage over any Real Property and do all such acts (excluding investigating title, providing surveys or conducting diligence unless the nature of the Real Property is such that such acts would be reasonably appropriate in the circumstances) 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)) :
  - (a) to perfect the security created or intended to be created in respect of the Mortgaged Property (which may include the execution by the Company of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Mortgaged Property) or for the exercise of the Collateral Rights,
  - (b) to confer on the Security Agent security over any property and assets of the Company located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to the Mortgage; and/or
  - (c) to facilitate the realisation of the Mortgaged Property

#### **Implied Covenants for Title**

Pursuant to the Debenture, the further assurance clause 6 4 is incorporated into the Mortgage, such that the obligations of the Company under the Mortgage shall be in addition to the covenants for title deemed to be included in the Debenture and the Mortgage by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994

#### **NEGATIVE PLEDGE**

Pursuant to the Debenture, the negative pledge is incorporated into the Mortgage, such that the Company undertook that it shall not, at any time during the subsistence of the Mortgage, create or permit to subsist any

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## Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>Security over all or any part of the Mortgaged Property other than security permitted pursuant to the Facility Agreement</p> <p>Where not otherwise defined in the body of this Form MG01, the following terms have the meanings set out below</p> <p><b>"Accession Agreement"</b> means any accession agreement entered into pursuant to the Facility Agreement.</p> <p><b>"Additional Borrower"</b> means a member of the Group which becomes a Borrower after the original date of the Facility Agreement, pursuant to the terms of the Facility Agreement.</p> <p><b>"Additional Guarantor"</b> means a member of the Group which becomes a Guarantor after the original date of the Facility Agreement, pursuant to the terms of the Facility Agreement</p> <p><b>"Amendment and Restatement Agreement"</b> means the amendment and restatement agreement to the Facility Agreement dated 30 November 2012 between, <i>inter alia</i>, Cucina Acquisition (UK) Limited as original borrower and original guarantor, Cucina Finance (UK) Limited as the charger and Barclays Bank PLC as the facility agent and security agent</p> <p><b>"Ancillary Facility Document"</b> means any document evidencing an ancillary facility entered into pursuant to the Facility Agreement</p> <p><b>"Arrangers"</b> means Barclays Capital, J P. Morgan PLC and The Royal Bank of Scotland PLC.</p> <p><b>"Borrower"</b> means an Original Borrower or an Additional Borrower</p> <p><b>"Collateral Rights"</b> means all rights, powers and remedies of the Security Agent provided by or pursuant to this Mortgage or by law.</p> <p><b>"Commitment Letter"</b> means the commitment letter dated 12 July 2007 made between Barclays Capital, Barclays Bank PLC, J.P Morgan PLC, JPMorgan Chase Bank, N.A., Cucina Finance and the Original Borrower together with the Accession Letter dated 12 July 2007 and made between the Arrangers (as defined in the Facility Agreement), Barclays Bank PLC, JPMorgan Chase Bank, N A., Cucina Finance and the Original Borrower together with the letters of the same date setting out further details of the terms of that commitment</p> <p><b>"Compliance Certificate"</b> means any compliance certificate delivered pursuant to the Facility Agreement</p> <p><b>"Consent Request Letter"</b> means the consent request letter dated 15 November 2012 from Cucina Acquisition (UK) Limited to the Facility Agent, in relation to certain amendments to the Facility Agreement</p> <p><b>"Consent Response Form"</b> means a consent response form in the form set out</p>	

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## Particulars of a mortgage or charge

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

#### Short particulars

Original Borrower and the Facility Agent relating to the interest rate hedging to be effected by the Group.

**"Intercreditor Deed"** means the intercreditor agreement dated 12 October 2007 between, amongst others, Cucina Acquisition (UK) Limited, Cucina Finance (UK) Limited, Barclays Bank PLC as Agent and Security Agent and the financial institutions named therein as Senior Lenders

**"Issuing Bank"** means Barclays Bank PLC

**"Letter of Credit"** means a letter of credit, guarantee, bond or other instrument issued or to be issued by the Issuing Bank pursuant to the Facility Agreement.

**"Mortgaged Property"** means:

(a) the lease of Palmer Road, A1 Triangle, Gonerby Moor Grantham dated 20 December 2012 made between (1) Inflation-Linked Properties LP and (2) Brakes Bros Limited, to be granted out of title number LL104832 and LL185145, and

(b) the lease of Units 1-4, Baird Way, Thetford dated 20 December 2012 made between (1) ASDA Trustees (Nominee) Limited and (2) Brakes Bros Limited, to be granted out of title numbers NK289532, NK124076 and NK208883;

and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such property, including all Related Rights.

**"Obligor"** means a Borrower or a Guarantor, as defined in the Facility Agreement

**"Original Borrower"** means Cucina Acquisition (UK) Limited

**"Original Guarantor"** means Cucina Acquisition (UK) Limited

**"Real Property"** means:

(a) any freehold, leasehold or immovable property, and

(b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property,

and includes all Related Rights.

**"Receivables Financing Facility Document"** means

(a) the Deed of Consent, Amendment and Restatement between Brake Bros Limited, W Pauley & Co Limited, Brake Bros Foodservice Limited, Brake Bros Receivables Limited, Brake Bros Holdings II Limited and Barclays Bank PLC acting through its Sales Finance division dated on or about



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## Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
Short particulars	Please give the short particulars of the property mortgaged or charged	
	<p>in the Consent Request Letter</p> <p><b>"Debenture"</b> means the debenture dated 12 October 2007 between Cucina Acquisition (UK) Limited as original chargor and Barclays Bank PLC as security agent and registered at Companies House on 18 October 2007</p> <p><b>"Delegate"</b> means any delegate, agent, attorney or co-agent appointed by the Security Agent</p> <p><b>"Distribution Letter"</b> means the letter dated 12 July 2007 between, <i>inter alia</i>, the Arrangers, Cucina Finance and the Original Borrower</p> <p><b>"Facility Agent"</b> means Barclays Bank PLC.</p> <p><b>"Facility Agreement"</b> means the senior facilities agreement originally dated 12 October 2007, as amended from time to time, between, among others, Cucina Acquisition (UK) Limited as the Original Borrower and the Original Guarantor, the Arrangers, the Original Lenders, the Facility Agent and the Security Agent, each as defined in such agreement as amended, varied, novated or supplemented from time to time.</p> <p><b>"Fee Letter"</b> means (a) the fee letter dated 12 July 2007 between, <i>inter alia</i>, the Arrangers, Cucina Finance and the Original Borrower; and (b) any letter entered into by reference to the Facility Agreement between one or more Administrative Parties (as defined in the Facility Agreement) and the Original Borrower setting out the amount of certain fees referred to in the Facility Agreement.</p> <p><b>"Finance Documents"</b> means the Facility Agreement, the Commitment Letter, the Fee Letter, the Distribution Letter, an Accession Agreement, a Transfer Certificate, an Ancillary Facility Document, the Hedging Letter, the Hedging Agreement, a Security Document, the Intercreditor Deed, a Compliance Certificate, a Request, a Letter of Credit, the Report Proceeds Side Letter, the Amendment and Restatement Agreement, the Consent Request Letter, a Consent Response Form and any other document designated as such by the Facility Agent and the Original Borrower</p> <p><b>"Group"</b> means the Original Borrower and each of its Subsidiaries</p> <p><b>"Guarantor"</b> means the Original Guarantor or an Additional Guarantor.</p> <p><b>"Hedging Agreement"</b> means any agreement entered into or to be entered into by an Obligor and a Hedge Counterparty for the purpose of hedging interest rate liabilities in relation to the facilities in accordance with the Facility Agreement.</p> <p><b>"Hedge Counterparty"</b> means any financial institution which becomes a party to the Intercreditor Deed in accordance with the terms of the Intercreditor Deed.</p> <p><b>"Hedging Letter"</b> means a letter dated 12 October 2007 made between the</p>	

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## Particulars of a mortgage or charge

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

#### Short particulars

the first Utilisation Date ("**Deed of Consent, Amendment and Restatement**"),

(b) the Limited Recourse Agreement between Brake Bros Receivables Limited and Barclays Bank PLC acting through its Sales Finance division as amended and restated under the Deed of Consent, Amendment and Restatement; and

(c) the Deed of Agreement between Brake Bros Limited, W. Pauley & Co Limited, Brake Bros Foodservice Limited, Brake Bros Receivables Limited and Barclays Bank PLC acting through its Sales Finance division as amended and restated under the Deed of Consent, Amendment and Restatement.

"**Receiver**" means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Mortgaged Property and that term will include any appointee made under a joint and/or several appointment.

"**Related Rights**" means, in relation to any asset:

(a) the proceeds of sale of any part of that asset,

(b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,

(c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and

(d) any monies and proceeds paid or payable in respect of that asset

"**Report Proceeds Side Letter**" means the letter executed by Bain Capital Limited on 12 October 2007 in relation to proceeds received under the reports

"**Request**" means a request for a credit delivered pursuant to the Facility Agreement

"**Secured Parties**" means the Security Agent, any Receiver, any Delegate, the Facility Agent, the Issuing Bank, each Hedge Counterparty and each Lender (as defined in the Facility Agreement) from time to time party to the Facility Agreement provided that in the case of the Facility Agent and Lenders such person is party to or has acceded to the Intercreditor Deed in accordance with its terms.

"**Security Document**" means each security document entered into pursuant to the Facility Agreement

"**Subsidiary**" means:

(a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent of the voting capital or

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## Particulars of a mortgage or charge

<b>6</b>	<b>Short particulars of all the property mortgaged or charged</b>	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise, or</p> <p>b) an entity treated as a subsidiary in the financial statements of any person pursuant to the accounting standards.</p> <p><b>"Transfer Certificate"</b> means any transfer certificate entered into pursuant to the Facility Agreement.</p> <p><b>"Trust Account"</b> has the meaning given to such term in the Receivables Financing Facility Documents.</p>	



## **CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE**

**Pursuant to section 869(5) & (6) of the Companies Act 2006**

**COMPANY NO. 2035315  
CHARGE NO. 11**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A MORTGAGE DATED 29 JANUARY  
2013 AND CREATED BY BRAKE BROS LIMITED FOR SECURING  
ALL MONIES DUE OR TO BECOME DUE FROM EACH OBLIGOR  
TO BARCLAYS BANK PLC AS SECURITY AGENT OR ANY OF  
THE OTHER SECURED PARTIES ON ANY ACCOUNT  
WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED  
INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS  
REGISTERED PURSUANT TO CHAPTER 1 PART 25 OF THE  
COMPANIES ACT 2006 ON THE 5 FEBRUARY 2013

GIVEN AT COMPANIES HOUSE, CARDIFF THE 7 FEBRUARY  
2013

