



COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

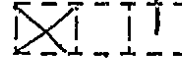
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Pursuant to section 395 of the Companies Act 1985

M86

Please complete
legibly, preferably
in black type, or
bold block letteringTo the Registrar of Companies
(Address overleaf—Note 5)

For official use Company number



2456153

Name of company

* Encom-Kent Limited
(the "Company")* insert full name
of company

Date of creation of the charge

20 May 1994

Description of the instrument (if any) creating or evidencing the charge (note 2)

A debenture (the "Debenture") dated 20 May 1994 and made between the Company and National Westminster Bank Plc as trustee on the terms and conditions set out in the Security Trust Agreement (the "Trustee") for the Beneficiaries

Amount secured by the charge

Each and every liability which the Company may at 20 May 1994 or thereafter have to the Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries (and whether solely or jointly with one or more persons and whether as principal or as surety) under or pursuant to the Facility Documents (including the Debenture) including any liability in respect of any further advances made thereunder and payment to the Trustee when due and payable of every sum (of principal, interest or otherwise) at 20 May 1994 or thereafter owing, due or incurred by the Company to the Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries in respect of any such liabilities. Provided that every payment by the Company of any sum in respect of the liabilities covenanted in the Debenture to be discharged by the Company to or for the account of the Beneficiary to whom the same is due and payable which is made in accordance with the terms of the Facility Document under which such sum is payable to such Beneficiary shall operate in satisfaction *pro tanto* of such covenant (the "Secured Obligations").

cont

Names and addresses of the chargees or persons entitled to the charge

National Westminster Bank Plc (as trustee for the Beneficiaries) of 135 Bishopsgate, London.
Postcode EC2M 3URPresentor's name address and
reference (if any):Clifford Chance
200 Aldersgate Street
London
EC1A 4W

Time critical reference

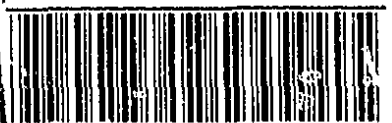
MLD/GRH/C1662/13267

For Official Use
Mortgage Section

Post Room

REGISTERED

- 8 JUN 1994



K0MDK1XN

KLO/REC IPT DATE: 08/06/94

Short particulars of all the property charged

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legibly, preferably
in black type, or
bold block lettering

1. The Company as beneficial owner has:

Fixed Charges

(i) charged in favour of the Trustee as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of first fixed charge (which so far as it relates to land in England and Wales vested in the Company at 20 May 1994 shall be a charge by way of legal mortgage) each of the following, namely:

(a) **Land**

the Real Property;

(b) **Tangible Movable Property**

the Tangible Movable Property;

cont

Particulars as to commission allowance or discount (note 3):

NONE

Signed Clifford Chance

Date 8 June 1994

On behalf of ~~XXXXXX~~ (chargee)†

† delete as
appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
 - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
 - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 The address of the Registrar of Companies is:-
Companies House, Crown Way, Cardiff CF4 3UZ

**Particulars of a mortgage or charge
(continued)**

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binding margin

Continuation sheet No 1
to Form No 395 and 410 (Scot)

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

Company number

2456153

Name of company

~~Encom Kent~~

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

Definitions

In this Form 395:

Please complete
legibly, preferably in
black type, or bold
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"Banks" means Citibank, N.A., The Toronto-Dominion Bank, ARN AMRO Bank N.V., The Bank of Nova Scotia, Midland Bank plc, National Westminster Bank Plc and Samuel Montagu & Co. Limited and each other financial institution which has had assigned or transferred to it any right and/or obligation in accordance with Clause 39 of the Facility Agreement and "Bank" means any one of them;

"Beneficiaries" means the Trustee, the Facility Agent, the Overdraft Bank, the Initial Beneficiaries, the Subsequent Beneficiaries and each other person from time to time party to any of the Facility Documents pursuant to an assignment or transfer provided always that such other person shall have executed and delivered to the Trustee a duly completed accession undertaking which has been countersigned by the Facility Agent and the Trustee;

"Borrower" means Encom Cable T.V. & Telecommunications Limited as borrower under the Facility Agreement;

"Cable System" means the telecommunication system (as defined in Section 4(1) of the Telecommunications Act 1984) constructed or to be constructed in the area covered by the Licences and includes any part of such system and all modifications, substitutions, replacements, renewals and extensions made to such system;

"Charged Property" means, subject to any contrary indication, the undertaking and assets of the Company from time to time charged in favour of, or assigned (whether at law or in equity) to, the Trustee by or pursuant to the Debenture;

"Earnings Account" means the account numbered 41168533 in the name of the Borrower with the Midland Bank plc and/or any other accounts with Midland Bank plc or other bank as may from time to time be notified by the Borrower to the Facility Agent;

"ELTH Charge" means the charge dated 20 May 1994 granted by East London Telecommunications (Holdings) Limited in favour of the Trustee;

"Encom Debenture" means the debenture dated 20 May 1994 granted by the Borrower in favour of the Trustee;

"Equipment Leasing Agreement" means any agreement by which the Company acquires rights to use any plant, machinery or equipment in or for the purposes of its business but acquires no interest in or title to that plant, machinery or equipment other than as lessee or hirer thereof;

"Facility Agent" means National Westminster Bank Plc and includes any person for the time being appointed as agent for the purpose of, and in accordance with, the Facility Agreement provided that such person shall have executed and delivered to the Trustee a duly completed accession undertaking which has been countersigned by the outgoing Facility Agent and the Trustee;

"Facility Agreement" means the agreement dated 20 May 1994 and made between (1) the Borrower, (2) the Company as guarantor, (3) Citibank International plc, (4) The Toronto-Dominion Bank as joint arrangers, (5) The Bank of Nova Scotia as documentation agent, (6) National Westminster Bank Plc as facility agent and trustee and others;

"Facility Documents" means the Facility Agreement, the Overdraft Facility Letter, the Security Trust Agreement, the Security Documents and any interest rate hedging agreement entered into by a Hedging Counterparty pursuant to the Facility Agreement;

"Hedging Counterparties" means the Bank or Banks which enter into interest rate hedging arrangements with the Borrower pursuant to the Facility Agreement and "Hedging Counterparty" means any one of them;

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete
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(c) **Accounts**

all rights and claims to which the Company was at 20 May 1994 or may thereafter become entitled in relation to all monies at 20 May 1994 or at any time thereafter standing to the credit of any bank accounts (including any Earnings Accounts) together with all rights relating or attaching thereto (including the right to interest);

(d) **Intellectual Property**

the Intellectual Property;

(e) **Goodwill**

all goodwill (including all brand names not otherwise subject to a fixed charge or assignment by or pursuant to the Debenture) at 20 May 1994 or at any time thereafter belonging to the Company; and

(f) **Licences**

to the extent that the same may be the subject of security, the benefit of all the Licences;

(g) **Property Rights**

all rights and claims to which the Company was at 20 May 1994 or may thereafter become entitled in relation to the Real Property and the Tangible Movable Property including those against any manufacturer, supplier or installer of such property, any builder, contractor or professional adviser engaged in relation to any such property and any lessee, sub-lessee or licensee of any of the Real Property and any guarantor or surety for the obligations of such person;

(h) **Debts**

all present and future book and other debts and monetary claims at 20 May 1994 or at any time thereafter due or owing to the Company which are not otherwise subject to a fixed charge or assigned (whether at law or in equity) to the Trustee by or pursuant to the Debenture and all rights relating thereto including any security or remedies therefor;

(i) **Investments**

all Investments to which the Company was at 20 May 1994 or may thereafter become entitled;

(j) **Uncalled Capital**

all rights and claims to which the Company was at 20 May 1994 or may thereafter become entitled in relation to its uncalled capital;

(k) **Section 238, 239 and 244 orders**

all rights to which the Company was at 20 May 1994 or may thereafter become entitled in respect of the proceeds of any order of the court made pursuant to Sections 238(3), 239(3) or 244 of the Insolvency Act 1986

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**Particulars of a mortgage or charge
(continued)**Please do not
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Continuation sheet No _____
to Form No 395 and 410 (Scot)Please complete
legibly, preferably
in black type, or
bold block lettering

Company number

2456153

Name of company

~~Encom Kent~~

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

"Initial Beneficiaries" means Citibank International plc, The Toronto-Dominion Bank, The Bank of Nova Scotia, ABN AMRO Bank N.V., Citibank, N.A., Midland Bank plc, National Westminster Bank Plc and Samuel Montagu & Co Limited;

Please complete
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"Insurance Policies" means the policies of insurance details of which are set out below:

Insurer	Policy No.	Insured Risks	Sums Payable	Date of Policy and Duration of Cover
Cigna Insurance Company of Europe SA-NV ("Cigna")	47UK204795	Employers Liability	Unlimited	31/12/93-31/12/94
Cigna U.K. (Pool Re)	97UK124143	Terrorism	US\$20,000,000 any one occurrence	31/12/93-31/12/94
Cigna	CGL 032815	General Liability	US\$1,000,000 each occurrence	1/1/93-15/5/95
Cigna	XBC 599367	Umbrella Liability	US\$9,000,000 excess US\$1,000,000	15/6/89-15/5/96
Cigna	64UK204796	Motor	Comprehensive - various categories	31/12/93-31/12/94
Sun Alliance & London	SA00405208	Personal Accident/Travel	PA: £100,000 Travel: various	31/12/93-31/12/94
Chubb Insurance Company of Canada ("Chubb")		Crime	\$55,000,000 Cdn	31/12/93-31/12/94
Chubb		Directors & Officers	\$125,000,000 Cdn	31/12/93-1/11/94
Chubb		Kidnap & Ransom	\$25,000,000 Cdn	31/12/93-31/12/94
Cigna		Umbrella & Excess Liability	US\$199,000,000 excess US\$1,000,000	12/12/93-15/5/94

and any other policies of insurance in which the Company may at 20 May 1994 or thereafter have an interest;

"Intellectual Property" means all letters patent, trade marks, service marks, designs, utility models, copyrights, design rights, applications for registration of any of the foregoing and rights to apply for them in any part of the world, moral rights, inventions, confidential information, knowhow and rights of like nature arising or subsisting anywhere in the world in relation to any of the foregoing, whether registered or unregistered, and the benefit of all licences and other rights to use any of the same now or hereafter belonging to the Company;

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

PROVIDED THAT:

(1) unless and until the Company has obtained the consent of the relevant landlord, lessor, licensee, licensor or (as the case may be) other relevant party (each of which is hereinafter referred to as a "Consenting Party") the Security granted pursuant to Clause 3.1(i) of the Debenture shall not extend to any leasehold property or the Company's rights in respect of any Equipment Leasing Agreement, contract or Intellectual Property licence (each of which is hereinafter referred to as a "Restricted Asset") if and to the extent that the terms of the relevant lease, Equipment Leasing Agreement, contract or Intellectual Property licence prohibit (either absolutely or without the consent of the relevant Consenting Party) the creation of a fixed charge over the relevant Restricted Asset. However, if the Trustee so requests, the Company shall use all reasonable endeavours to obtain as soon as possible the consent of the relevant Consenting Party for the Company to create a legal mortgage, or, as the case may be, other fixed charge over the relevant Restricted Asset as part of the Security. On each such consent being obtained, the relevant Restricted Asset shall thereupon automatically become subject to the Security granted pursuant to Clause 3.1(i) of the Debenture which did not apply to it prior to such consent being obtained and the Company shall immediately produce such consent to the Trustee; and

(2) the rights of the Trustee under the Debenture in relation to any plant, machinery or equipment leased to the Company under an Equipment Leasing Agreement shall be subject to the rights of the lessor under the relevant Equipment Leasing Agreement;

ASSIGNMENT

(ii) assigned to the Trustee as trustee, for the Beneficiaries, all the Company's right, title and interest in and to all rights and claims to which the Company was at 20 May 1994 or may thereafter become entitled in relation to the proceeds of any of the Insurance Policies; and

FLOATING CHARGE

(iii) charged in favour of the Trustee as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of first floating charge the whole of the Company's undertaking and assets, at 20 May 1994 and thereafter, other than any assets for the time being effectively charged to the Trustee by way of fixed charge or effectively assigned (whether at law or in equity) to the Trustee or otherwise subject to an effective fixed security in favour of the Trustee.

2. Negative Pledge

2.1 Under the Debenture the Company has undertaken that at no time during the subsistence of the Security will the Company, otherwise than in favour of the Trustee as trustee for the Beneficiaries create, grant, extend or permit to subsist any encumbrance (other than a Permitted Encumbrance) on or over all or any part of the Charged Property.

2.2 Under the Debenture the Company has undertaken, but subject to Clause 7.4 of the Debenture, that at no time during the subsistence of the Security will the Company, except with the prior written consent of the Trustee and except to the extent permitted by Clause 7.3 of the Debenture:

(i) fail to comply with Clause 25.2(v) of the Facility Agreement;

(ii) create or agree to create, any legal or equitable estate or interest in or over, or relating to the enjoyment of, any Material Real Property or grant or agree to grant any licence or consent, whether expressly or by conduct, for assignment, parting with or sharing possession or occupation, underletting, change of use or alterations in relation to any lease to which any Material Real Property may from time to time be subject and the Company will procure that no person shall become entitled to assert any proprietary interest or right over any Material Real Property, except in each case where any such action would not (i) have a material adverse effect on the value of such Material Real Property or (ii) prevent, restrict or impair the carrying on by the Company of its business; or

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**Particulars of a mortgage or charge
(continued)**

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Continuation sheet No 3
to Form No 395 and 410 (Scot)

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

Company number

2456153

Name of company

Encom Kent

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

"Investments" means stocks, shares, debentures and other securities together with all rights to and relating to stocks, shares, debentures or other securities and any other assets, rights or interests falling within any paragraph in Part 1 of Schedule 1 to the Financial Services Act 1986 as in force at 20 May 1994 but so that the exceptions in the notes to paragraphs 2 and 5 and note (1) to paragraph 8 of that Part shall not apply;

Please complete
legibly, preferably in
black type, or bold
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"Licences" means the licences granted to the Borrower and/or the Company in connection with the operation of the Cable System details of which are more particularly set out in the Eighth Schedule to the Facility Agreement;

"Material Real Property" means:

- (i) Real Property with a market value exceeding £200,000; or
- (ii) Real Property on which any headend equipment or switch equipment is held;

"Overdraft Bank" means the provider of an Overdraft Facility (which shall at all times be a Bank) to the Borrower;

"Overdraft Facility" means the overdraft facilities to be provided by the Overdraft Bank to the Borrower in an aggregate amount of not more than £3,000,000 in accordance with the terms of the Overdraft Facility Letter;

"Overdraft Facility Letter" means a letter between the Overdraft Bank and the Borrower setting out the terms of the Overdraft Facility;

"Permitted Encumbrances" means:

- (i) any encumbrance created pursuant to the terms of the Facility Documents; and
- (ii) any of the following:
 - (a) liens arising solely by operation of law (or by an agreement evidencing the same) in the ordinary course of its business;
 - (b) any encumbrance arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired by a member of the Group in the ordinary course of its business;
 - (c) any encumbrance existing at the time of acquisition on or over any asset acquired by it and not created in contemplation of or in connection with that acquisition Provided that such encumbrance is discharged within 45 days of acquisition;
 - (d) any encumbrance created in connection with any bonds issued pursuant to Schedule 4 of each Licence granted pursuant to the Telecommunications Act 1984;
 - (e) any encumbrance created in respect of leases of computer equipment or vehicles not exceeding in aggregate £2,000,000;
 - (f) any encumbrance created over deposits in respect of obligations under leases of real property not exceeding in aggregate £750,000; and
 - (g) any other encumbrance created or outstanding on or over any assets of any member of the group provided that the aggregate outstanding principal, capital or nominal amount secured by all encumbrances created or outstanding under this exception on or over assets of members of the Group must not at any time exceed £50,000 or its equivalent;

"Real Property" means all estates and other interests in freehold, leasehold and other immovable property wheresoever situate at 20 May 1994 or thereafter belonging to the Company (including the registered and unregistered land, if any, in England and Wales of which the Company is the registered proprietor or owner) and all buildings, trade and other fixtures, fixed plant and machinery from time to time on any such freehold, leasehold and other immovable property together with all rights, easements and privileges appurtenant to, or benefitting, the same;

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete
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- (iii) exercise any of the power reserved to a mortgagor by Sections 99 and 100 of the Law of Property Act 1925 or otherwise grant or agree to grant any lease or tenancy or licence of or relating to any Material Real Property or accept to agree to accept a surrender, cancellation, assignment, charge or any other disposal of any lease, tenancy or licence thereof or relating thereto, except in each case where any such action would not (i) have a material adverse effect on the value of such Material Real Property or (ii) prevent, restrict or impair the carrying on by the Company of its business; or
- (iv) allow any person any licence or other right to use, occupy or share possession of all or any part of the Charged Property

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

Provided always that for the purpose of Clause 7.2 of the Debenture and in this Form 395 a "licence" shall be construed as a non-revocable legal or equitable right to occupy the freehold or leasehold property.

2.3 Subject to Clause 9 of the Debenture all monies at 20 May 1994 or at any time thereafter standing to the credit of any bank accounts (whether deposit or current accounts or otherwise howsoever designated) opened or maintained by the Company with the Trustee and all or any rights and benefits relating thereto shall be incapable of assignment (and each deposit of any such monies shall be made on such terms accordingly) and the Company shall not purport to assign or otherwise dispose of any interest in any such monies or any such rights and benefits.

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Particulars of a mortgage or charge (continued)

Continuation sheet No 4
to Form No 395 and 410 (Scot)

Please complete
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in black type, or
bold black lettering

Company number

2456153

Name of company

Encom Kent

Limited*

*delete if
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

"Receiver" means a receiver appointed pursuant to Clause 14.2 of the Debenture;

"Security" means the security from time to time constituted by or pursuant to the Debenture;

"Security Documents" means the Debenture, the ELTH Charge, the Encom Debenture and all other documents from time to time creating, evidencing or entered into as security for the obligations of the Company under the Facility Agreement entered into pursuant to the Facility Agreement or those other documents;

"Security Trust Agreement" means the agreement designated as such entered into between the Trustee, the Facility Agent, the Initial Beneficiaries, East London Telecommunications (Holdings) Limited, the Company and Encom Cable T.V. & Telecommunications Limited on 20 May 1994;

"Subsequent Beneficiaries" means such of the Hedging Counterparties and the Overdraft Bank as have executed and delivered to the Trustee a duly completed accession undertaking which has been countersigned by the Trustee; and

"Tangible Movable Property" means:

- (i) all headend equipment being equipment required in order to transmit or receive radio and/or television programming and other services including, without limitation, antennae, satellite receiver only dishes, converters, microwave receivers, modulators and laser transmitters;
- (ii) all switch equipment being equipment required in order to operate a telephone exchange in conjunction with a telecommunications network including, without limitation, all computer hardware and software required for that purpose;
- (iii) all wire, cable (including copper and fibre optic cable), tube, pipe or other similar thing (including its casing or coating) which is laid or in the process of being laid by the Company as part of the construction of the Cable System; and
- (iv) all proprietary computer software now or hereafter belonging to the Company including all rights (including copyright) in, to and over computer programs, including computer programs in source code and object code form, preparatory design material and databases.

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Encom.395

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete
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Short particulars of all the property mortgaged or charged (Continued)

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Please complete
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CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 02456153

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th MAY 1994 AND CREATED BY ENCOM KENT LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO NATIONAL WESTMINSTER BANK PLC AS SECURITY TRUSTEE FOR ITSELF AND FOR THE BENEFICIARIES (AS DEFINED) OR ANY OF THEM UNDER THE TERMS OF THE FACILITY DOCUMENTS (INCLUDING THE DEBENTURE) AND/OR ANY OTHER RELATED SECURITY DOCUMENTS (AS DEFINED) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 8th JUNE 1994.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 13th JUNE 1994.

M. SAHA

for the Registrar of Companies



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

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