

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

Ac/00400107/15  
**395**

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

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

[1115]

02576479

Name of company

\* Ebley Tyre Services Limited (the "**Company**") of St. James' Court, 30 Brown Street, Manchester M2 2JF

Date of creation of the charge

23 September 2005

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

A debenture dated 23 September 2005 (the "**Debenture**") made between (1) the Company and (2) Barclays Bank PLC as security agent (the "**Security Agent**") for and on behalf of the Secured Parties (as defined in Schedule 1 attached hereto).

Amount secured by the mortgage or charge

All obligations owing to the Secured Parties by any Debtor under or pursuant to the Secured Documents (including the Debenture and any Mortgage), whether present or future, actual or contingent (and whether incurred solely or jointly, and whether as principal or surety or in some other capacity), and including any liability in respect of any further advances made under any of the Secured Documents (the "**Secured Obligations**").

See attached Schedule 1 for definitions.

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

Barclays Bank PLC as Security Trustee for and on behalf of the Secured Parties, 5 The North Colonnade, Canary Wharf

Postcode E14 4BB

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

Clifford Chance LLP  
10 Upper Bank Street  
Canary Wharf  
London  
E14 5JJ

(via CH London Counter)

Time critical reference

JMZS/B4624/02477/AOA

For official Use (02/00)

Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

See attached Schedule 2.

See attached Schedule 1 for definitions used.

Please do not  
write in  
this margin

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

Particulars as to commission allowance or discount (note 3)

None

Signed

*Clifford Chance*

Date

*4 October 2005*

On behalf of ~~XXXXXXXXXXXXXXXXXX~~ [chargee] †

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

† 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 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders must be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is: Companies House, Crown Way, Cardiff CF14 3UZ

**Schedules to Form 395 relating to a Debenture dated 23 September 2005 between Ebley Tyre Services Limited and Barclays Bank PLC**

**SCHEDULE 1  
DEFINITIONS**

**"Account"** means any credit balance from time to time on any account opened or maintained by the Company with the Security Agent or any other financial institution (and any replacement account or subdivision or subaccount of that account), the debt or debts represented thereby, and all Related Rights;

**"Agents"** means each of the Senior Agent and the Mezzanine Agent;

**"Assigned Account"** means any Account that may from time to time be identified in writing as an Assigned Account by the Security Agent;

**"Borrower"** means a borrower under the facilities in the Senior Facilities Agreement or the Mezzanine Facility Agreement;

**"Charged Intellectual Property"** means any and all Intellectual Property owned by the Company in connection with its business now or in the future including, without limitation, those rights listed in Schedule 6 of the Debenture (*Details of Intellectual Property*), which at the date of the Debenture is none;

**"Charged Share Portfolio"** means the Shares and the Related Assets;

**"Debtors"** means the Company, the Obligors, and any other member of the Group party to any Secured Document;

**"Future Mortgaged Property"** means any Real Property, other than the Mortgaged Property, in respect of which the Company enters into a Mortgage pursuant to Clause 6 of the Debenture (*Further Assurance*);

**"Group"** means Speedy 1 Limited and each of its subsidiaries for the time being;

**"Guarantor"** means a guarantor under the Senior Facilities Agreement or the Mezzanine Facility Agreement;

**"Hedge Counterparty"** means each financial institution which has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions thereof;

**"Insurance Policy"** means any policy of insurance in which the Company may from time to time have an interest;

**"Intellectual Property"** means any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, the benefit of all applications and rights to use such assets and all Related Rights;

**"Intercreditor Agreement"** means the intercreditor agreement dated 30 August 2005 between, *inter alia*, Speedy 1 Limited as the company and original obligor, Financière Daunou 2, S.A. as the parent and Luxco, the Agents, Barclays Bank PLC as security agent and various financial institutions listed therein;

**"Investments"** means:

- (a) any stocks, shares, debentures, securities and certificates of deposit (but not including the Shares),
- (b) all interests in collective investment schemes, and
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b),

in each case whether held directly by or to the order of the Company or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system);

**"Mezzanine Agent"** means Deutsche Bank AG, London Branch in its capacity as agent for the Mezzanine Lenders;

**"Mezzanine Facility Agreement"** means the mezzanine facility agreement dated 30 August 2005 made between, amongst others, Speedy 1 Limited as the Company, the Arrangers, the Original Lenders (each as defined in such agreement), the Mezzanine Agent and the Security Agent as amended, varied, novated or supplemented from time to time;

**"Mezzanine Finance Documents"** means the Finance Documents as defined in the Mezzanine Facility Agreement;

**"Mezzanine Lender"** means a lender under the Mezzanine Facility Agreement;

**"Monetary Claims"** means any book and other debts and monetary claims owing to the Company and any proceeds thereof (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which the Company is a party and any other assets, property, rights or undertaking of the Company);

**"Mortgage"** means a mortgage or charge in respect of the Mortgaged Property (or any Future Mortgaged Property) entered into in accordance with Clause 6 of the Debenture (*Further Assurance*) substantially in the form of Schedule 7 of the Debenture (*Form of Legal Mortgage*);

**"Mortgaged Property"** means the freehold and leasehold property in England and Wales specified in Schedule 1 of the Debenture (*Details of Mortgaged Property*) or in respect of which the Company has entered into a Mortgage or Debenture on or about the date of the Debenture;

**"Obligor"** means a Borrower or a Guarantor or the Company;

**"Priority Creditors"** means the Senior Creditors and the Mezzanine Lenders;

**"Real Property"** means:

- (a) any freehold, leasehold or immovable property (including the Mortgaged 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;

**"Related Assets"** means all dividends, interest and other monies payable in respect of the Shares and all other rights, benefits and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise);

**"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 moneys and proceeds paid or payable in respect of that asset;

**"Secured Documents"** means the Mezzanine Finance Documents and the Senior Finance Documents;

**"Secured Obligations"** means all obligations owing to the Secured Parties by any Debtor under or pursuant to the Secured Documents (including this Debenture and any Mortgage), whether present or future, actual or contingent (and whether incurred solely or jointly, and whether as principal or surety or in some other capacity), and including any liability in respect of any further advances made under any of the Secured Documents;

**"Secured Parties"** means the Security Agent, any receiver (to the extent appointed in accordance with applicable law or pursuant to the terms of the security documents and other than a Dutch *curator* or *bewindvoerder* or similar officer appointed by the court under the laws of The Netherlands or an administrator (*Insolvenzverwalter*, *Sachwalter* or *Verwalter*) or similar officer appointed by a court under the laws of Germany) or delegate (to the extent appointed in accordance with applicable law or pursuant to the terms of the security documents), and each of the Agents and the Priority Creditors from time to time but, in the case of each Agent or Priority Creditor, only if it is a party to the Intercreditor Agreement or has delivered to the Security Agent a duly executed lender accession undertaking accepted by the Security Agent and the relevant Agent;

**"Senior Agent"** means Barclays Bank PLC in its capacity as agent for the Senior Lenders;

**"Senior Creditor"** means the Senior Lenders and the Hedge Counterparties;

**"Senior Facilities Agreement"** means the senior facilities agreement dated 30 August 2005 between, amongst others, Speedy 1 Limited as the Company, Barclays Capital and Deutsche Bank AG, London Branch as the Arranger, Barclays Bank PLC as the Issuing Bank, the Original Lenders (as defined in such agreement), the Senior Agent and the Security Agent as amended, varied, novated or supplemented from time to time;

**"Senior Finance Documents"** means the Finance Documents as defined in the Senior Facilities Agreement;

**"Senior Lender"** means a lender under the Senior Facilities Agreement;

**"Shares"** means all of the shares in the capital of each company specified in Part II of Schedule 5 (*Details of Other Security*) held by, to the order or on behalf of the Company at any time, which at the date of the Debenture is none;

**"Specific Contracts"** means each contract specified in Part III of Schedule 5 (*Details of Other Security*), which at the date of the Debenture is none; and

**"Tangible Moveable Property"** means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Company's stock in trade or work in progress) and all Related Rights.

**SCHEDULE 2****SHORT PARTICULARS OF ALL THE PROPERTY CHARGED****1. Fixed Charges**

Pursuant to Clause 3.1 of the Debenture, the Company has charged with full title guarantee in favour of the Security Agent as trustee for the Secured Parties as security for 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 the date of the Debenture shall be a charge by way of legal mortgage) all the Company's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party):

- (1) the Real Property;
- (2) the Tangible Moveable Property;
- (3) the Accounts;
- (4) the Charged Intellectual Property;
- (5) any goodwill and rights in relation to the uncalled capital of the Company;
- (6) the Investments;
- (7) the Charged Share Portfolio; and
- (8) all Monetary Claims other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the Debenture and all Related Rights.

**2. Assignments**

Pursuant to Clause 3.2 of the Debenture, the Company has assigned with full title guarantee to the Security Agent as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations all the Company's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party):

- (1) the proceeds of any Insurance Policy and all Related Rights;
- (2) all rights and claims in relation to any Assigned Account; and
- (3) each of the Specific Contracts.

**3. Floating Charge**

- (a) Pursuant to Clause 3.3 of the Debenture, the Company has charged with full title guarantee in favour of the Security Agent as trustee for the Secured Parties with the

payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of the Company.

- (b) The floating charge is deferred in point of priority to all fixed security validly and effectively created by the Company under the Secured Documents in favour of the Security Agent as trustee for the Secured Parties as security for the Secured Obligations.
- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge.

4. **Further Assurance**

The Debenture contains covenants for further assurance

5. **Negative Pledge**

The Debenture contains a negative pledge.



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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. 02576479

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 23rd SEPTEMBER 2005 AND CREATED BY EBLEY TYRE SERVICES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM ANY DEBTOR TO THE 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 XII OF THE COMPANIES ACT 1985 ON THE 4th OCTOBER 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 7th OCTOBER 2005.

*mm*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES