

# M

COMPANIES FORM No. 395 173086/60

## Particulars of a mortgage or charge

# 395

A fee of £10 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

18

3047122

Name of company

\* Axsia Limited (the "**Chargor**")

Date of creation of the charge

15th March, 2004

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

Security Agreement and Guarantee (the "**Security Agreement**") dated 15th March, 2004 between the Chargor and the U.K. Agent

Amount secured by the mortgage or charge

All present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor to any U.K. Lender under each Loan Document to which the Chargor is a party, except for any obligation which, if it were so included, would result in the Security Agreement contravening Section 151 of the Companies Act 1985 (the "**Secured Liabilities**")

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

HSBC Bank Plc (the "**U.K. Agent**"), The Cross, Gloucester, Gloucestershire, as agent and trustee for the U.K. Lenders

Postcode GL1 2AP

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

Allen & Overy  
One New Change  
London  
EC4M 9QQ

For official Use  
Mortgage Section

Post room



LD4  
COMPANIES HOUSE

\*LC9WHTPG\*

0342  
25/03/04

Time critical reference

MGD/CEB/BK:1257105.1

Short particulars of all the property mortgaged or charged

Please see continuation sheets 1 to 9.

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)

Nil

Signed

Allen & Overy

Date 24th March, 2004

On behalf of ~~XXXXXX~~ [company] ~~XXXXXX~~ [mortgagee/chargee] †

A fee of £10 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 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-

Companies House, Crown Way, Cardiff CF14 3UZ

## SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

### 1. CREATION OF SECURITY

#### 1.1 General

- (a) All the security created under the Security Agreement:
  - (i) is created in favour of the U.K. Agent;
  - (ii) is created over present and future assets of the Chargor;
  - (iii) is security for the payment of all the Secured Liabilities; and
  - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the rights of the Chargor under a document cannot be secured without the consent of a party to that document:
  - (i) to extent the Chargor becomes aware of this after the date of the Security Agreement, it must notify the U.K. Agent promptly;
  - (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself; and
  - (iii) unless the U.K. Agent otherwise requires, the Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under the Security Agreement.
- (c) The U.K. Agent holds the benefit of the Security Agreement on trust for the U.K. Lenders.

#### 1.2 Investments

The Chargor secures:

- (a) by way of a first legal mortgage all shares in any member of the Group (other than the Chargor) owned by it or held by any nominee on its behalf; and
- (b) (to the extent that they are not the subject of a mortgage under sub-paragraph (a) above) by way of a first fixed charge its interest in all Investments.

#### 1.3 Plant and machinery

The Chargor secures by way of a first fixed charge all plant and machinery owned by the Chargor and its interest in any plant or machinery in its possession.

#### 1.4 Credit balances

The Chargor secures by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any account (including any account contemplated by the Security Agreement) it has with any person and the debt represented by it.

**1.5 Book debts etc.**

The Chargor secures by way of a first fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights, securities or guarantees of any nature enjoyed or held by it in relation to any item under paragraph (a) or (b) above.

**1.6 Insurances**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.

**1.7 Other contracts**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of:

- (a) any agreement to which it is a party except to the extent that it is subject to any fixed security created under any other term of clause 4 (Creation of Security) of the Security Agreement;
- (b) any letter of credit issued in its favour; and
- (c) any bill of exchange or other negotiable instrument held by it.

**1.8 Intellectual property**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of:

- (a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right;
- (b) any copyright or other intellectual property monopoly right; or
- (c) any interest (including by way of licence) in any of the above,

in each case whether registered or not and including all applications for the same.

**1.9 Miscellaneous**

The Chargor secures by way of first fixed charge:

- (a) insofar as it has power to do so, any beneficial interest, claim or entitlement it has in any pension fund;
- (b) its goodwill;

- (c) the benefit of any authorization (statutory or otherwise) held in connection with its use of any Security Asset;
- (d) the right to recover and receive compensation which may be payable to it in respect of any authorization referred to in paragraph (c) above; and
- (e) its uncalled capital.

**1.10 Floating charge**

- (a) The Chargor secures by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under clause 4 (Creation of Security) of the Security Agreement.
- (b) Except as provided below, the U.K. Agent may by notice to the Chargor convert the floating charge created by this subclause into a fixed charge as regards any of the Chargor's assets specified in that notice, if:
  - (i) an Event of Default is outstanding; or
  - (ii) the U.K. Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- (c) The floating charge created by the Security Agreement may not be converted into a fixed charge solely by reason of:
  - (i) the obtaining of a moratorium; or
  - (ii) anything done with a view to obtaining a moratorium,under the Insolvency Act 2000.
- (d) The floating charge created by the Security Agreement is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

**2. RESTRICTIONS ON DEALINGS**

The Chargor must not, unless expressly allowed under the Credit Agreement:

- (a) create or permit to subsist any Security Interest on any Security Asset; or
- (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset, except for the disposal in the ordinary course of trade of any Security Asset subject to the floating charge created under subclause 4.10 (Floating charge) of the Security Agreement.

**Company: Axsia Limited**  
**Company Number: 3047122**  
**Continuation Sheet Number: 4**

**In this form 395:**

A reference to the Loan Document or another document is a reference to that Loan Document or other document as amended. An **"amendment"** includes a supplement, novation, restatement or re-enactment and **"amended"** is to be construed accordingly.

All definitions that are defined in the singular have the same meanings when used in the plural and vice versa.

The term **"this Security"** means any security created by the Security Agreement.

**"Agents"**

means U.S. Agent, Canadian Agent and U.K. Agent, collectively.

**"Applications"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Assignment and Acceptance"**

shall have the meaning ascribed to such term in Section 11.6(b) of the Credit Agreement.

**"Bankers' Acceptance"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Bankers' Acceptance Notice"**

has the meaning specified in Section 2.3(a) of the Credit Agreement.

**"Borrower"**

means each of U.S. Borrower, Canadian Borrower and U.K. Borrower, individually.

**"Canadian Borrower"**

means NATCO Canada , Ltd., a corporation formed under the laws of the Province of Ontario.

**"Canadian Commitment"**

shall have the meaning assigned to such term in Section 1.1 of the Credit Agreement.

**"Canadian Dollars"**

means lawful money of Canada.

**"Canadian Lender"**

means each lender party to the Credit Agreement with any Canadian Commitment or any outstanding Canadian Obligations.

**"Canadian Letters of Credit"**

has the meaning assigned to such term in Section 2.2 of the Credit Agreement.

**"Canadian Obligations"**

shall have the meaning assigned to such term in Section 1.1 of the Credit Agreement.

**"Collateral Agency Agreement"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Contribution Agreements"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Corporation"**

means any corporation, limited liability company, partnership, joint venture, joint stock company, business trust and other business entity.

**"Credit Agreement"**

means the credit agreement dated 15th March, 2004 between (among others) the U.K. Borrower, the U.K. Agent, NATCO Group Inc., NATCO Canada Ltd, Wells Fargo Bank, National Association and the Lenders party thereto.

**"Dollars"**

means lawful money of the United States of America.

**"Euros"**

means the lawful currency for the time being of the European Community.

**"Event of Default"**

shall have the meaning assigned to it in Section 9.1 of the Credit Agreement.

**"Exchange Rate"**

means, on any day, with respect to any foreign currency in relation to Dollars or Dollars in relation to any foreign currency, the noon buying rate in New York City for cable transfers payable in the applicable foreign currencies as certified to the Federal Reserve Board by the Federal Reserve Bank of New York for customs purposes on such day, as published on such day pursuant to Federal Reserve Board Statistical Release H.10; provided, however, that in the event that any applicable exchange rate cannot be determined on any day by the foregoing procedure, then such exchange rate shall be determined for such day in accordance with such commercially reasonable procedures as the applicable Agent may elect.

**"Group"**

means Axsia Holdings Limited and its Subsidiaries.

**"Guarantees"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Investments"**

means:

- (a) the Shares;
- (b) all other shares, stocks, debentures, bonds or other securities and investments included in the definition of Security Assets;
- (c) any dividend or interest paid or payable in relation to any of the above; and
- (d) any right, money or property accruing or offered at any time in relation to any of the above by way of redemption, substitution, exchange, bonus or preference under option rights or otherwise.

**"Issuer"**

means the issuer (or, where applicable, each issuer) of a Letter of Credit under the Credit Agreement.

**"Lender"**

means each of the lenders which is or may from time to time become a party to the Credit Agreement which term shall include U.S. Lenders, Canadian Lenders and U.K. Lenders.

**"Letter of Credit Liabilities"**

means, at any time and in respect of any Letter of Credit, the sum of (i) the amount available for drawings under such Letter of Credit plus (ii) the aggregate unpaid amount of all Reimbursement Obligations at the time due and payable in respect of previous drawings made under such Letter of Credit. For the purpose of determining at any time the amount described in clause (i), in the case of any Letter of Credit payable in a currency other than Dollars or Canadian Dollars, such amount shall be converted by Agent to Dollars by any reasonable method, and such converted amount shall be conclusive and binding, absent manifest error. For purposes of calculating the aggregate amount of Letter of Credit Liabilities, all amounts or values expressed in Canadian Dollars shall be converted into Dollars at the Exchange Rate in effect as of the date of calculation.

**"Letters of Credit"**

means the U.S. Letters of Credit, the Canadian Letters of Credit and the U.K. Letters of Credit.

**"Loan Documents"**

means, collectively, the Credit Agreement, the Notes, the Bankers' Acceptances, the Bankers' Acceptance Notices, the Collateral Agency Agreement, the Guaranties, the Contribution Agreements, all Applications, the Security Documents, the Notice of Entire Agreement, all instruments, certificates and agreements now or hereafter executed or delivered by any Obligor to any Agent or any Lender pursuant to any of the foregoing or in connection with the Obligations or any commitment regarding



**Company: Axsia Limited**  
**Company Number: 3047122**  
**Continuation Sheet Number: 7**

the Obligations, and all amendments, modifications, renewals, extensions, increases and rearrangements of, and substitutions for, any of the foregoing.

**"Notes"**

shall have the meaning assigned to such term in Section 2.7 of the Credit Agreement.

**"Obligors"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Pounds"**

means the lawful currency for the time being of the United Kingdom.

**"Reimbursement Obligations"**

means, as at any date, (i) the obligations of any Borrower then outstanding, or which may thereafter arise, in respect of Letters of Credit under the Credit Agreement, to reimburse the applicable Issuers for the amount paid by such Issuers in respect of any drawing under such Letters of Credit and (ii) the obligations of the Canadian Borrower then outstanding, or which may thereafter arise, in respect of any Bankers' Acceptance purchased by any Canadian Lender or paid by it on maturity of such Bankers' Acceptance. Except for Canadian Letters of Credit denominated in Canadian Dollars, Reimbursement Obligations in respect of any Letter of Credit shall at all times be payable in Dollars, notwithstanding any such Letter of Credit being payable in a currency other than Dollars.

**"Security Assets"**

means all assets of the Chargor the subject of any security created by the Security Agreement.

**"Security Documents"**

shall have the meaning ascribed to such term in Section 1.1 of the Credit Agreement.

**"Security Interest"**

means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.

**"Shares"**

means any shares, stocks, debentures, bonds or other securities and investments in Axsia Serck Baker Limited and Axsia Howmar Limited.

**"Subsidiary"**

means, as to a particular parent Corporation, any Corporation of which more than 50% of the indicia of equity rights (whether outstanding capital stock or otherwise) is at the time directly or indirectly owned by, such parent Corporation.

**"U.K. Borrower"**

**Company: Axsia Limited**  
**Company Number: 3047122**  
**Continuation Sheet Number: 8**

means Axsia Group Limited, a company incorporated in England and Wales under the Companies Act of the United Kingdom.

**"U.K. Commitment"**

means, as to any U.K. Lender, the obligation, if any, of such U.K. Lender to make U.K. Revolving Loans, incur or participate in Letter of Credit Liabilities relating to U.K. Letters of Credit in an aggregate principal amount at any one time outstanding up to (but not exceeding) the amount, if any, set forth opposite such U.K. Lender's name on the signature pages of the Credit Agreement under the caption "U.K. Commitment", or otherwise provided for in an Assignment and Acceptance (as the same may be increased or reduced from time to time pursuant to Section 2.4 of the Credit Agreement).

**"U.K. Lender"**

means each lender party to the Credit Agreement with any U.K. Commitment or any outstanding U.K. Obligations.

**"U.K. Letters of Credit"**

has the meaning assigned to such term in Section 2.2 of the Credit Agreement.

**"U.K. Obligations"**

means, as at any date of determination thereof, the sum of the following (determined without duplication): (i) the aggregate principal amount of U.K. Revolving Loans outstanding under the Credit Agreement on such date, plus (ii) the aggregate amount of Letter of Credit Liabilities outstanding on such date relating to U.K. Letters of Credit. For purposes of calculating the aggregate amount of U.K. Obligations, all amounts or values expressed in Pounds or Euros shall be converted into Dollars at the Exchange Rate in effect as of the date of determination.

**"U.K. Revolving Loan"**

means any revolving credit loan made pursuant to Section 2.1(c) of the Credit Agreement.

**"U.S. Borrower"**

means NATCO Group Inc., a Delaware corporation.

**" U.S. Commitment"**

shall have the meaning assigned to such term in Section 1.1 of the Credit Agreement.

**"U.S. Lender"**

means each lender party to the Credit Agreement with any U.S. Commitment or any outstanding U.S. Obligations.

**"U.S. Letters of Credit"**

shall have the meaning assigned to such term in Section 2.2 of the Credit Agreement.

**Company: Axsia Limited**  
**Company Number: 3047122**  
**Continuation Sheet Number: 9**

**"U.S. Obligations"**

shall have the meaning assigned to such term in Section 1.1 of the Credit Agreement.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03047122

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY AGREEMENT AND GUARANTEE DATED THE 15th MARCH 2004 AND CREATED BY AXSIA LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ANY U.K. LENDER 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 25th MARCH 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 29th MARCH 2004.

*DX 6*



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —