

# M

CHFP025

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legibly, preferably  
in black type, or  
bold block lettering

\* insert full name  
of Company

**COMPANIES FORM No. 395****Particulars of a mortgage or charge**

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



3128071

Name of company

\* ERM Limited (the "New Charging Company")

Date of creation of the charge

~~17th April 2001~~

11 April 2001

NWC

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

A security accession deed dated 11 April 2001 between the New Charging Company, ERM Holdings Limited (the Parent) and the Governor and Company of the Bank of Scotland (the "Security Agent") (the "Security Accession Deed") to a debenture dated 30th March 2001 between, inter alia, the Parent and the Security Agent (the "Debenture").

Amount secured by the mortgage or charge

In this Form 395, terms which are not defined elsewhere in this document have the same meaning given to them in the Definitions Annex attached.

All money or liabilities due, owing or incurred to any Secured Party by the New Charging Company or any other Obligor under any Finance Document at present or in the future, in any manner whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon and (without double counting) any indebtedness in relation to or arising under or in connection with including all liabilities in connection with any notes, bills, or other instruments accepted by any Secured Party for or at the request of an Obligor and all losses incurred by any Secured Party in connection therewith in each case under any Finance Document except for any money or liability which, if it were so included, would cause the infringement of section 151 of the Companies Act 1985 (the "Indebtedness").

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

The Governor and Company of the Bank of Scotland, 2nd Floor, Broad Street House, 55 Old Broad Street, London

Postcode EC2P 2HL

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

Ashurst Morris Crisp  
Broadwalk House  
5 Appold Street  
London  
EC2A 2HA

MCR/CZG/470S.00050/2167777

Time critical reference

For official use  
Mortgage £



PMO  
COMPANIES HOUSE  
COMPANIES HOUSE  
COMPANIES HOUSE

0387  
27/4/01  
15/05/01  
27/04/01

Non-part Reg on  
27/4/01

See continuation sheets 1-4 attached.

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legibly, preferably  
in black type, or  
bold block  
lettering

Particulars as to commission allowance or discount (note 3)

Nil

Signed

*Ashurst Morris Crisp*

Date

*11/05/01*

On behalf of [company] [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

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**Form 395 Continuation Sheet 1 of 4**

Attachment to Form 395 setting out short particulars of all the property mortgaged or charged (*An interpretation of the defined terms is set out in the Definitions Annex attached*)

**Fixed Charges:** By clause 2.3 of the Security Accession Deed (and clause 3.1 of the Debenture), as continuing security for the payment of the Indebtedness the New Charging Company has charged in favour of the Security Agent with full title guarantee the following assets, both present and future, from time to time owned by it or in which it has an interest by way of first fixed charge:-

- (i) all the Subsidiary Shares (including without limitation those listed in schedule 1 to the Security Accession Deed) and Investments and all corresponding Distribution Rights;
- (ii) all interests in any freehold or leasehold property, the buildings and fixtures (including trade fixtures) on that property, all proceeds of sale derived therefrom and the benefit of all covenants given in respect thereof and all licences to enter upon or use land and the benefit of all other agreements relating to land;
- (iii) all plant, machinery, vehicles, computers, office and other equipment and the benefit of all contracts, licences and warranties relating thereto;
- (iv) all Book Debts and all rights and claims against third parties and against any security in respect of those Book Debts;
- (v) (subject to clause 8.4(b) (Collection of book debts) of the Debenture) all monies standing to the credit of its accounts (including cash collateral accounts) with any bank, financial institution or other person;
- (vi) all its Intellectual Property Rights;
- (vii) the benefit of all consents and agreements held by it in connection with the use of any of its assets;
- (viii) its goodwill and uncalled capital;
- (ix) if not effectively assigned by clause 2.5 (Security Assignment) (or clause 3.3 of the Debenture), all its rights and interests in (and claims under) the Assigned Agreements.

**Floating Charge:** By clause 2.4 of the Security Accession Deed (and clause 3.2 of the Debenture), as further security for the payment of the Indebtedness, the New Charging Company has charged with full title guarantee in favour of the Security Agent (for the benefit of itself and the other Secured Parties) by way of first floating charge all its present and future assets not effectively charged by way of first fixed charge under clause 2.3 of the Security Accession Deed or assigned under clause 2.5 (Security Assignment) of the Security Accession Deed including heritable property and all other assets in Scotland.

**Security Assignment:** By clause 2.5 of the Security Accession Deed (and clause 3.3 of the Debenture), as further continuing security for the payment of the Indebtedness, the New Charging Company has assigned absolutely to the Security Agent all its rights, title and interest in the Assigned Agreements, identified in Schedule 2 to the Security Accession Deed provided that on payment or

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**Form 395 Continuation Sheet 2 of 4**

discharge in full of the Indebtedness the Security Agent will at the request and cost of the New Charging Company re-assign the Assigned Agreements to the New Charging Company (or as it shall direct).

By clause 3.3 of the Debenture, until the occurrence of a Declared Default, but subject to clause 8.8 (Assigned agreements) of the Debenture, the New Charging Company may continue to deal with the counterparties to the relevant Assigned Agreements.

By clause 3.4 of the Debenture, the Security Agent has confirmed (for itself and on behalf of the other Secured Parties) that should any of the charges created in clause 2.3(ii), (vii), (ix) and/or clause 2.4 and/or clause 2.5 of the Security Accession Deed (and clause 3.1(ii), (vii), (xi) and/or clause 3.2 and/or clause 3.3 of the Debenture) breach the terms of any lease under which the New Charging Company holds any leasehold property, such breach shall not in turn constitute a breach of any of the representations and warranties given by the New Charging Company in any other Finance Document. The Security Agent has further confirmed (for itself and on behalf of the other Secured Parties) that if (notwithstanding the New Charging Company's efforts in accordance with clause 3.5 of the Debenture) there is any material risk that any lessor of such a leasehold property will take proceedings for forfeiture of a lease on the grounds that its consent had not been obtained to the creation of a charge over that leasehold interest in the Security Accession Deed, the Security Agent will promptly release the security constituted by the Security Accession Deed over that lease.

By clause 3.5 of the Debenture, the New Charging Company has undertaken to use reasonable endeavours to obtain the consent of landlords to the creation of the charges envisaged by clause 2.3(ii), (vii), (ix) and/or clause 2.4 and/or clause 2.5 of the Security Accession Deed (and clause 3.1(ii), (vii), (xi) and/or clause 3.2 and/or clause 3.3 of the Debenture) as soon as possible, to keep the Security Agent informed of the progress of its negotiations with the landlord and to produce to the Security Agent a copy of each consent forthwith upon its receipt.

**Conversion of a Floating Charge:** By clause 3.6 of the Debenture, if:-

- (a) a Declared Default has occurred; or
- (b) the Security Agent acting reasonably is of the view that any legal process or execution is being enforced against any Floating Charge Asset or that any Floating Charge Asset is in danger of being seized or otherwise in jeopardy,

the Security Agent may, by notice to the New Charging Company, convert the floating charge created under the Debenture into a fixed charge as regards those assets which it specifies in the notice. The New Charging Company shall promptly execute a fixed charge or legal assignment over those assets in the form which the Security Agent requires, but on terms no more onerous to the New Charging Company than the Debenture.

Any charge by the New Charging Company which has crystallised under clause 3.6 or clause 3.7 of the Debenture may, by notice in writing given at any time by the Security Agent or the New Charging Company, be reconverted into a floating charge in relation to the Assets or class or classes of Assets specified in such notice.

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**Form 395 Continuation Sheet 3 of 4**

**Automatic Conversion of the Floating Charge:** Clause 3.7 of the Debenture provides that if the New Charging Company creates (or purports to create) any security interest (except as permitted by the Senior Credit Agreement and the Mezzanine Loan Agreement or with the prior consent of the Security Agent) on or over any Floating Charge Asset without the prior consent in writing of the Security Agent, or if any third party levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset, the floating charge created under the Debenture will automatically (without notice) and immediately be converted into a fixed charge over the relevant Floating Charge Asset.

**Continuing Security:** Clause 4 of the Debenture provides that the security is to be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Indebtedness or any other matter or thing.

The security created by the Debenture is to be in addition and shall neither be merged in nor in any way exclude or prejudice or be affected by any other security or other right which the Security Agent and/or any other Secured Party may now or after the date of the Debenture hold for any of the Indebtedness, and this security may be enforced against the New Charging Company without first having recourse to any other rights of the Security Agent or any other Secured Party.

**Further Assurance:** By clause 5.1 of the Debenture:

(a) the New Charging Company has agreed that it will, at its own expense, promptly following request by the Security Agent, execute such deeds and other agreements and otherwise take whatever action the Security Agent may require:-

- (i) to perfect and/or protect the security created (or intended to be created) by this deed;
- (ii) to facilitate the realisation or enforcement of such security;
- (iii) to facilitate the exercise of any of the Security Agent's rights, powers or discretions under this deed; and/or
- (iv) to confer on the Security Agent security over any assets of the New Charging Company (in whatever jurisdiction situated) equivalent or similar to the security intended to be conferred by this deed,

including the conversion of charges to assignments, equitable security to legal security subject to clause 8.6 of the Debenture, the execution of any transfer, conveyance, assignment or assurance whatsoever and the giving of all notices, orders, instructions and directions whatsoever. Provided that the New Charging Company is not under any obligation to serve a notice of assignment relating to any charge which has been converted to an assignment unless a Declared Default has occurred.

(b) The New Charging Company has further agreed that any security document required to be executed by the New Charging Company under clause 5.1 will contain clauses corresponding to and no more onerous than the provisions set out in the Debenture.

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**Form 395 Continuation Sheet 4 of 4**

**Negative Pledge and Disposal Restrictions:** By clause 6 of the Debenture, the New Charging Company has covenanted that it will not except as permitted by the Senior Credit Agreement and the Mezzanine Loan Agreement or with the prior consent of the Security Agent:-

- (a) create or agree to create or permit to subsist any security interest over all or any part of the Charged Property;
- (b) sell, transfer, lease out, lend or otherwise dispose of all or any part of the Charged Property (other than Floating Charge Assets in accordance with any applicable restrictions in the Senior Credit Agreement and Mezzanine Loan Agreement) or the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so; or
- (c) dispose of the equity of redemption in respect of all or any part of the Charged Property;

**Set-off rights:** By clause 20 of the Debenture, the New Charging Company has agreed that any Secured Party may at any time after a Declared Default has occurred (without notice to the New Charging Company):-

- (a) set-off or otherwise apply sums standing to the credit of the New Charging Company's accounts with that Secured Party (irrespective of the terms applicable to those accounts and whether or not those sums are then due for repayment to that Secured Party); and
- (b) set-off any other obligations (whether or not then due for performance) owed by that Secured Party to the New Charging Company,

against any liability of the New Charging Company which is due and payable at that time to the relevant Secured Party under the Finance Documents.

**"Agents"** means the Facility Agent and the Security Agent;

**"Arranger"** means the Governor and Company of the Bank of Scotland in its capacity as arranger for the Lenders under the Senior Finance Documents;

**"Assets"** means an asset charged under clause 3.2 (Floating Charge) of the Debenture which has crystallised under clause 3.6 (Conversion of a floating charge) or 3.7 (Automatic conversion of a floating charge) of the Debenture;

**"Assigned Agreements"** means those agreements identified in schedule 2 attached hereto;

**"Book Debts"** means all book and other debts and monetary claims and receipts;

**"Borrowers"** means the Group Companies listed in part 1 of schedule 2 to the Senior Credit Agreement and each other Group Company which becomes a borrower under the Senior Credit Agreement in accordance with clause 18.1 (Additional Borrowers) of the Senior Credit Agreement;

**"Charged Property"** means the assets mortgaged, charged or assigned to the Security Agent by the Security Accession Deed;

**"Collection Accounts"** means the accounts of the New Charging Company set out in schedule 3 attached hereto and/or such other accounts as the New Charging Company and the Security Agent shall agree or (following the occurrence of a Declared Default) as the Security Agent shall specify;

**"Declared Default"** means an Event of Default which has resulted in the Facility Agent exercising any of its rights under clause 21.2 (Cancellation and repayment) of the Senior Credit Agreement or an Event of Default which has resulted in the Mezzanine Agent exercising any of its rights under clause 19.2 (Cancellation and repayment) of the Mezzanine Loan Agreement;

**"Distribution Rights"** means all dividends, distributions and other income paid or payable on an Investment or Subsidiary Share, together with all shares or other property derived from that Investment or Subsidiary Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Investment or Subsidiary Share (whether by way of conversion, redemption, bonus, preference, option or otherwise);

**"Event of Default"** means any event specified in clause 21.1 (List of events) of the Senior Credit Agreement or any event specified in clause 19.1 (List of events) of the Mezzanine Loan Agreement;

**"Facility Agent"** means the Governor and Company of the Bank of Scotland in its capacity as facility agent for the Lenders under the Senior Finance Documents;

**"Fees Letter"** means the letter from the Facility Agent to the Parent dated on 28 February 2001 setting out details of certain fees payable by the Parent in connection with the Senior Facilities;

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

**"Floating Charge Asset"** means an asset charged under clause 3.2 (Floating charge) of the Debenture;

**"Group"** means the Parent and its Subsidiaries from time to time;

**"Group Company"** means a member of the Group;

**"Guarantors"** means Parent, ERM-NA Holdings Corp and each other Group Company which becomes a guarantor under either the Senior Credit Agreement in accordance with clause 18.3 (Additional Guarantors) or the Mezzanine Loan Agreement in accordance with clause 16 (Additional Guarantors);

**"Intellectual Property Rights"** means all patents and patent applications, trade and service marks and trade and/or service mark applications (and all goodwill associated with any such applications), all brand and trade names, all copyrights and rights in the nature of copyright, all design rights, all registered designs and applications for registered designs, all trade secrets, know-how and all other intellectual property rights;

**"Intercreditor Deed"** means an intercreditor deed dated 28 February 2001 between, amongst others, each of the parties to the Finance Documents and each of the Original Equity Investors;

**"Investment"** means any negotiable instrument, certificate of deposit, debenture, share or other investment (as defined in part 1 of schedule I to the Financial Services Act 1986 as at the date of the Security Accession Deed) owned by the New Charging Company (including, unless the context otherwise requires, the Subsidiary Shares);

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

**"Mezzanine Agent"** means Intermediate Capital Group Plc in its capacity as facility agent for the Mezzanine Lenders under the Mezzanine Finance Documents;

**"Mezzanine Arranger"** means Intermediate Capital Group Plc in its capacity as arranger for the Mezzanine Lenders under the Mezzanine Finance Documents;



**"Mezzanine Fees Letter"** means the letter from the Mezzanine Agent to the Parent dated 28 February 2001 setting out details of certain fees payable by the Parent in connection with the Mezzanine Loan Facility;

**"Mezzanine Finance Documents"** means the Mezzanine Loan Agreement, the Mezzanine Fees Letter, each Security Document, the Intercreditor Deed, any hedging agreements, any accession documents, any transfer certificates and any other document designated as a Mezzanine Finance Document by the Parent and the Mezzanine Agent;

**"Mezzanine Finance Parties"** means the Mezzanine Arranger, each Mezzanine Agent, each Mezzanine Lender and any hedging lenders;

**"Mezzanine Lenders"** means Intermediate Capital Group plc and any transferee which has become a party to the Mezzanine Loan Facility in accordance with clause 27 (Changes to parties) of the Mezzanine Loan Facility;

**"Mezzanine Loan Agreement"** means the mezzanine loan agreement in the agreed form dated 28<sup>th</sup> February 2001 between the Parent as borrower, the companies named therein as guarantors, Intermediate Capital Group Plc as arranger, the lenders named in that agreement, Intermediate Capital Group Plc as facility agent and the Governor and Company of the Bank of Scotland as security agent;

**"Mezzanine Loan Facility"** means the term loan facility made available by the Mezzanine Lenders under clause 2.1 (Facility) of the Mezzanine Loan Agreement;

**"Obligors"** means the Parent, each Borrower and each Guarantor;

**"Parent"** means ERM Holdings Limited, a company incorporated in England and Wales with registered number 4067993;

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

**"Security Documents"** means each of the security documents specified in schedule 3 (together with accession documents thereto) of the Senior Credit Agreement and schedule 2 (together with accession documents thereto) of the Mezzanine Loan Agreement and all other documents creating, evidencing or granting a Security Interest in favour of any Finance Party in relation to the obligations of any Obligor under any Finance Document;

**"Senior Credit Agreement"** means a credit agreement dated 28<sup>th</sup> February 2001, between the Parent as borrower, the companies named therein as guarantors, the Governor and Company of the Bank of Scotland as arranger, the lenders named in that agreement, the Governor and Company of the Bank of Scotland as facility agent and as security agent;

**"Senior Facilities"** means the term loan facilities made available by the Senior Lenders under clause 2.1 (Facilities) of the Senior Credit Agreement;

**"Senior Finance Documents"** means the Senior Credit Agreement, the Fees Letter, each Security Document, the Intercreditor Deed, any hedging agreements, any ancillary documents, any accession documents, any transfer certificates and any other document designated as a Senior Finance Document by the Parent and the Facility Agent;

**"Senior Finance Parties"** means the Arrangers, each Agent, each Senior Lender, any ancillary lenders and any hedging lenders;

**"Senior Lenders"** means the Governor and Company of the Bank of Scotland and each transferee which becomes a party to the Senior Credit Agreement in accordance with clause 29 (Change to Parties);

**"Subsidiary"** means a subsidiary and a subsidiary undertaking as defined in sections 736 and 258 of the Companies Act 1985 respectively;

**"Subsidiary Shares"** means all shares owned by the New Charging Company in its Subsidiaries, including without limitation those listed in schedule 1 attached hereto;

**Form 395**  
**ERM LIMITED**  
**Company No: 3128071**

**SCHEDULE 1**

**Details of Subsidiary Shares**

<b>Subsidiary</b>	<b>Number and Class of Shares</b>
ERM Asia Pacific Holdings Limited	100,000 Ordinary Shares
Environmental Resources Management Limited	302,548 Ordinary Shares
ERM Europe Limited	366 A Ordinary Shares 1,967 B Ordinary Shares 1,000 D Ordinary Shares

**Form 395**  
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**Company No: 3128071**

**SCHEDULE 2**

**Assigned Agreements**

<b>Agreement</b>	<b>Contracting Party</b>	<b>Policy Number</b>
Commercial Combined Insurance Policy	Allianz Cornhill	3034840100
Terrorism Insurance Policy	Allianz Cornhill	T3034840100
Fidelity Guarantee Insurance	Chubb Insurance Company of Europe, S.A.	81459111D
Uninsured Loss Recovery Insurance	AON Motor Assistance	35999
Key Executive Policy (Life and Critical Illness cover) for Robin Bidwell	Norwich Union	4090144

**Form 395**  
**ERM LIMITED**  
**Company No: 3128071**

**SCHEDULE 3**

**Collection Accounts**

<b>Account Bank</b>	<b>Sort Code</b>	<b>Account Number</b>
Barclays Bank plc	20-00-00	70399353
Barclays Bank plc	20-00-00	50081310
Bank of Scotland	12-01-03	00305532

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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. 03128071

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY ACCESSION DEED (AS DEFINED) DATED THE 11th APRIL 2001 AND CREATED BY ERM LIMITED FOR SECURING ALL MONEY OR LIABILITIES DUE OR TO BECOME DUE FROM THE COMPANY (THE "NEW CHARGING COMPANY") OR ANY OTHER OBLIGOR (AS DEFINED) UNDER ANY FINANCE DOCUMENT (AS DEFINED) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 27th APRIL 2001.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 17th MAY 2001.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —

*Handwritten signature*