

# M

COMPANIES FORM No. 395

## Particulars of a mortgage or charge

# 395

CHA213

Pursuant to section 395 of the Companies Act 1985

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write in  
this margin

To the Registrar of Companies

(Address overleaf—Note 5)

For official use

		2
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Company number

324 1233

Name of Company

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

ECD (Cookham Wood) Limited (the "Company")

Date of creation of the charge

\* insert full name  
of company

3 March 1997

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

Legal Charge (the "Legal Charge")

Amount secured by the charge

The "**Liabilities**", which are defined in the Legal Charge as meaning all moneys, debts and liabilities which now are or have been or at any time hereafter may be or become due, owing or incurred by the Company to any Bank Secured Creditor under or in connection with any Banks Financing Document (in each case, whether alone or jointly, or jointly and severally, with any other Person, whether actually or contingently and whether as principal debtor, guarantor, surety or otherwise).

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

ABN AMRO Bank N.V. (as trustee for the Bank Secured Creditors)

101 Moorgate, London

Postcode

EC2M 6SB

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

Linklaters & Paines  
Barrington House  
59-67 Gresham Street  
London EC2V 7JA  
Ref: SUMH  
Tel: 0171 606 7080 Ext. 3381

Time critical reference

For Official Use

Mortgage Section

Post Room



KLO \*KAJ07TVW\* 2317  
COMPANIES HOUSE 10/03/97

Short particulars of all the property charged

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write in  
this margin

The Company with full title guarantee and as security for the payment and discharge of all Liabilities charged in favour of the Trustee as trustee for the Bank Secured Creditors, by way of first legal mortgage, all that leasehold property known as Cookham Wood Secure Training Centre, Cookham Wood, Rochester, Kent, the subject of a lease dated the date of the Charge between (1) Her Majesty's Principal Secretary of State for the Home Department (as Landlord) and (2) ECD (Cookham Wood) Limited and Rebound ecd Limited (as tenants) (the "Lease").

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legibly, preferably  
in black type, or  
bold block lettering

Note (A): The Legal Charge provides that:-

**(i) Permitted Security:**

The Company shall not create or have outstanding any Security on, over or with respect to the property the subject of the Lease except for the Legal Charge.

**(ii) Registered Land**

The Company shall not, save as contemplated in the Relevant Documents, in relation to any of the property the subject of the Lease (1) grant any Rights over the property, (2) exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute, (3) create a tenancy of any kind, (4) part with or share possession

Particulars as to commission allowance or discount (note 3)

NIL

Signed Winklaters & Paines Date 6 March 1997

On behalf of chargee †

X

† 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

or occupation, (5) accept the surrender of any lease, underlease or tenancy, or (6) agree to do any of the foregoing.

Note (B): In this Form and its Continuation sheets, except to the extent that the context requires otherwise:-

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

**"Account Bank"** means ABN AMRO Bank N.V. as holder of the Project Accounts, and/or such other banks as may be appointed additional or substitute holders of any Project Accounts in accordance with the Facility Agreement

**"Account Bank Agreement"** means an agreement dated the date of the Debenture between the Company, the Account Bank and the Facility Agent in relation to the establishment and operation of the Project Accounts (other than the Distribution Account) in the form set out in the Facility Agreement together with any bank mandates, fee letters or safekeeping agreements agreed between the Company and the Account Bank relating thereto

**"Approved Hedging Programme"** means at any time the Original Hedging Agreement and following the expiry of the Original Hedging Agreement any programme from time to time adopted by the Company and approved by the Facility Agent on behalf of the Majority Banks for the entering into and performance by the Company of agreements for the management of the Company's exposure to changes in floating rates of interest

**"Assets"** means, in relation to any Person, all or any part of its business, undertaking, property, assets, revenues, Rights and uncalled capital, wherever situated

**"Authority Direct Agreement"** means the direct agreement dated the date of the Debenture between the Company, the Facility Agent, the Trustee and the Secretary of State in respect of the DCMF Contract and the Lease

**"Available Loan Commitment"** means, in relation to a Bank, its Loan Commitment less the principal amount of its Loan Outstandings

**"Available Working Capital Commitment"** means, in relation to the Working Capital Bank, its Working Capital Outstandings

**"Banks"** means ABN AMRO Bank N.V., any New Bank and their respective successors and permitted assigns but not including any Bank in its capacity as a Hedging Counterparty and except in Clause 4.1 (Drawdown Request), Clause 4.3.1 (Pro Rata Participation in Loan Advances), Clause 11 (Change in Market Conditions), Clause 19.3 (Broken Funding Costs) and Clause 24.2 (Pro Rata Sharing) a reference to **"Bank"** shall include reference to the Working Capital Bank

**"Banks Financing Documents"** means:-

- (i) the Facility Agreement
- (ii) the Original Hedging Agreement and any other Hedging Agreement effected pursuant to the Approved Hedging Programme
- (iii) the Security Documents
- (iv) the Direct Agreements
- (v) the Account Bank Agreement
- (vi) the notices of charge (other than such notices which are contemplated to be given pursuant to the Facility Agreement or a Direct Agreement) given pursuant to and as contemplated by the Debentures and the acknowledgments thereto
- (vii) the Fee Letters; and

- (viii) all agreements and other documents executed from time to time pursuant to any of the foregoing to which the Facility Agent and/or the Trustee and/or any other Bank Secured Creditor is a party and any present or future document confirming or evidencing any Security or Guarantee for, or in relation to, the Company's obligations under any other Banks Financing Document

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**"Bank Secured Creditors"** means the Trustee, the Facility Agent, the Banks and any Hedging Counterparty (in their respective capacities) and includes every permitted assignee, permitted transferee or successor of any of the foregoing

**"Borrowed Money"** means any Indebtedness (a) for or in respect of money borrowed or raised (whether or not for cash), by whatever means (including acceptances, deposits, discounting, factoring, finance leases, hire purchase, sale-and-leaseback, sale-and-repurchase and any form of "off-balance sheet" financing (other than financing the acquisition of an Asset in respect of which repayment is to be made solely out of the revenues generated by the Asset and where the recourse of the provider of the finance is limited to the Asset so financed)) or (b) for the deferred purchase price of Assets or services (other than goods or services obtained on normal commercial terms in the ordinary course of trading) where payment may be made at least 30 days after the purchase thereof

**"Collateral Warranty Agreement"** means the agreement dated the date of the Debenture entered into between the Constructor, the Borrower and the Authority

**"Company's Group"** means the Company, Education Care and Discipline Limited and their respective subsidiaries from time to time

**"Commitment"** means, in relation to a Bank at any particular time and subject to reduction, novation or cancellation as provided in this Agreement, the aggregate of its Loan Commitment and its Working Capital Commitment (or as provided in any Transfer Certificate by which such Bank acquires a participation under the Facility Agreement)

**"Constructor"** means Tarmac Construction Limited (or any of its successors or permitted assigns)

**"DCMF Contract"** means the agreement dated the date of the Debenture between the Company and the Secretary of State for the design, construction, management and financing of the STC at Cookham Wood, Kent

**"DCC Direct Agreement"** means the direct agreement dated the date of the Debenture between the Company, the Facility Agent, the Trustee, the Constructor and Tarmac plc in respect of the Design and Construct Contract

**"DCC Guarantee"** means the guarantee dated the date of the Debenture given by Tarmac plc to the Borrower in respect of the Design and Construct Contract

**"Debentures"** means:-

- (a) the fixed and floating charge debenture dated [•] given by ECD (Cookham Wood) Limited to the Trustee in its capacity as trustee for the Bank Secured Creditors and
- (b) the fixed and floating charge debenture dated [•] given by Education Care and Discipline Limited to the Trustee in its capacity as trustee for the Bank Secured Creditors

**"Design and Construct Contract"** has the meaning given to that term in the definition of "Project Documents"

**"Direct Agreements"** means (a) the DCC Direct Agreement, (b) the OA Direct Agreement and (c) the Authority Direct Agreement

**"Facilities"** means the Loan Facility and the Working Capital Facility

**"Facility Agent"** means ABN AMRO Bank N.V. in its capacity as agent for the Banks and its assigns in that capacity and/or any successor appointed as Facility Agent pursuant to the Facility Agreement

**"Facility Agreement"** means the £12,850,000 facility agreement dated the date of the Debenture made between the Company, Education Care and Discipline Limited, ABN AMRO Bank N.V. as Arranger, ABN AMRO Bank N.V. as Hedging Counterparty, ABN AMRO Bank N.V. as Account Bank, ABN AMRO Bank N.V. as Facility Agent and Trustee and the Banks defined therein

**"Fee Letters"** means the letters dated the date of the Debenture pursuant to the Facility Agreement from the Borrower to the Facility Agent in respect of fees

**"Financing Costs"** means:-

- (a) interest under the Facility Agreement (including, without limitation, default interest and sums payable under Clauses 8 (Taxes), 10 (Increased Costs) and 11 (Change in Market Conditions) of the Facility Agreement) and in respect of any other Indebtedness in respect of Borrowed Moneys incurred by the (other than Subordinated Debt) Company which is permitted under Clause 15.2.10 of the Facility Agreement and
- (b) all commitment fees paid or payable by the Company under the Facility Agreement and all similar fees of a periodic nature (other than interest) in respect of any other Indebtedness in respect of Borrowed Money incurred by the Company which is permitted under Clause 15.2.10 of the Facility Agreement

and, in respect of any relevant period, means the aggregate of (a) and (b) above paid or payable during that period calculated (to the extent applicable) on an actual basis plus net payments by the Borrower under the Hedging Agreement in such relevant period or less net payments to the Borrower under the Hedging Agreement in such relevant period (as the case may be)

**"Fixed Charge"** means the Charge dated the date of the Debenture given by the Company to the Authority in respect of certain property

**"Guarantee"** includes an indemnity, a performance bond, and any other obligation (whatever called) of any Person to pay, purchase, provide funds (whether by the advance of money, the purchase of or subscription for shares or other securities, the purchase of Assets or services, or otherwise) for the payment of, indemnify against the consequences of default in the payment of, or otherwise be responsible for, any Indebtedness of any other Person (and "guaranteed" and "guarantor" will be construed accordingly)

**"Hedging Agreement"** means any agreement made between the Company and any Hedging Counterparty wherein the Company assumes an obligation to make payments to such Hedging Counterparty calculated by reference to a fixed rate of interest applied to a notional principal amount and such Hedging Counterparty assumes an obligation to make payments to the Company calculated by reference to a floating rate of interest applied to a notional principal amount

**"Hedging Counterparty"** means ABN AMRO Bank N.V. in its capacity as Hedging Counterparty or any other Bank with whom the Company has entered into a Hedging Agreement pursuant to the Approved Hedging Programme

**"Indebtedness"** includes any obligation (whether present or future, actual or contingent, secured or unsecured, as principal, surety or otherwise) for the payment or repayment of money

**"Loan Advance"** means an advance made, or to be made, in accordance with the Facility Agreement or, as the case may be, the Outstanding principal amount of any such advance

**"Loan Commitment"** means, in relation to a Bank and subject as provided the Facility Agreement,

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the amount set opposite its name at the end of the Facility Agreement under the heading "Loan Commitment" or, as the case may be, the amount of Loan Commitment acquired by it pursuant to a Transfer Certificate

**"Loan Facility"** means the Loan Facility in an aggregate amount not exceeding the £12,550,000 granted by the Banks to the Company pursuant to the Facility Agreement

**"Loan Outstandings"** means, in relation to a Bank at any particular time, the aggregate principal amount of its share of all (if any) Loan Advances outstanding at that time

**"Majority Banks"** means Banks whose aggregate Outstandings (excluding Financing Costs) and Commitments together exceed sixty-six and two-thirds per cent. of the aggregate Total Outstandings (excluding Financing Costs) and total Available Working Capital Commitments and Available Loan Commitments)

**"New Bank"** means a bank or financial institution (which may or may not already be a Bank) to which a Bank seeks to novate all or part of its rights and/or obligations in accordance with the Facility Agreement

**"OA Direct Agreement"** means the direct agreement dated the date of the Debenture between the Company, the Facility Agent, the Trustee, the Operator and Group 4 Securitas N.V. in respect of the Operating Agreement

**"OA Guarantee"** means the guarantee dated the date of the Debenture given by Group 4 Securitas N.V. to the Company in respect of the Operating Agreement

**"Operator"** means Rebound ecd Limited (or any successor or permitted assign) or such other Person as may be substituted as operator of the STC pursuant to the OA Direct Agreement with the consent of the Majority Banks

**"Operating Agreement"** has the meaning given to that term in the definition of Project Documents

**"Original Hedging Agreements"** means the Hedging Agreements comprising the ISDA Master Agreements dated the date of the Debenture between the Company and ABN AMRO Bank N.V. and the confirmations thereunder

**"Outstandings"** means, in relation to a Bank at any particular time, the aggregate principal amount of that Bank's Loan Outstandings and Working Capital Outstandings at that time and all Financing Costs (except for sums payable in respect of a Hedging Agreement) due to that Bank and unpaid

**"Person"** includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or Agency of a state (in each case whether or not having separate legal personality)

**"Project"** means the design, construction, commissioning, maintenance, operation and financing of the STC and activities ancillary or related thereto pursuant to the DCMF Contract

**"Project Accounts"** means:-

- (a) the Proceeds Account (account number 00093386) in the name of the Company held with the Account Bank
- (b) the Equity Reserve Account (account number 00093408) in the name of the Company held with the Account Bank
- (c) the Insurance Proceeds Account (account number 00093416) in the name of the Company held with the Account Bank

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- (d) the Insurance Deductibles Account (account number 00093424) in the name of the Company held with the Account Bank
- (e) the Debt Service Account (account number 00093432) in the name of the Company held with the Account Bank
- (f) the Contingent Reserve Account (account number 00093459) in the name of the Company held with the Account Bank
- (g) the Management Fee Account (account number 00093467) in the name of the Company held with the Account Bank
- (h) the Operating Account (account number 00093394) in the name of the Company held with the Account Bank and
- (i) the Distribution Account (account number 00093475) in the name of the Company held with the Account Bank (the **"Distribution Account"**)
- (j) the Tax Reserve Account (account number 000933483) in the name of the Company held with the Account Bank.
- (k) the ECD Account (account number 00093602) in the name of Education Care and Discipline Limited held with the Account Bank

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legibly, preferably  
in black type, or  
bold block lettering

**"Project Documents"** means:-

- (a)
  - (i) the DCMF Contract
  - (ii) the Lease
  - (iii) the Design and Construct Contract dated the date of the Debenture between the Company and the Constructor relating to the design, construction and commissioning of the STC by the Constructor (the **"Design and Construct Contract"**)
  - (iv) the Operation Agreement dated the date of the Debenture between the Company, the Operator and the Constructor in connection with the Project (the **"Operating Agreement"**)
  - (v) the Project Guarantees
  - (vi) the Shareholders' Agreement dated the date of the Debenture between the Company, Education Care and Discipline Limited and the Shareholders
  - (vii) the Subordinated Loan Stock Instruments
  - (viii) the Memorandum and Articles of Association of the Company
  - (ix) the Sponsor Support Agreement
  - (x) the Collateral Warranty Agreement
  - (xi) the Fixed Charge]
- (b) all agreements or instruments entered into in connection with or pursuant to any of the foregoing or affecting in any material respect the interests of the Banks under the Banks Financing Documents to which any member of the Company's Group is or hereafter becomes a party or under which any such member has or at any time after the date of the Debenture directly or indirectly acquires benefits

**"Project Guarantees"** means the DCC Guarantee and the OA Guarantee

**"Relevant Documents"** means the Project Documents and the Banks Financing Documents

**"Rights"** means rights, authorities, discretions, remedies, liberties, powers, easements, quasi-

easements and appurtenances (in each case, of any nature whatsoever)

**"Secretary of State"** means Her Majesty's Principal Secretary of State for the Home Department

**"Security"** includes any mortgage, pledge, lien, hypothecation, security interest or other charge or encumbrance and any other agreement or arrangement having substantially the same economic effect (including any "hold-back" or "flawed asset" arrangement but excluding any right of set-off which does not constitute a charge) (and "secured" will be construed accordingly)

**"Security Documents"** means:-

- (1) the Debentures
- (2) the Trust Deed and
- (3) all agreements and other documents executed from time to time pursuant to any of the foregoing

**"Shareholder"** means either of Prison and Court Services Limited or Tarmac (PFI) Limited or such other shareholders of Education Care and Discipline Limited from time to time and **"Shareholders"** means any of them

**"Sponsor"** means either of Tarmac plc or Group 4 Securitas N.V. and **"Sponsors"** shall mean both of them

**"Sponsor Support Agreement"** means the agreement dated the date of the Debenture between the Company, Education Care and Discipline Limited, the Shareholders, the Sponsors, the Facility Agent and the Trustee

**"Subordinated Debt"** means indebtedness of the Company as contemplated by the Sponsor Support Agreement and/or provided pursuant to the Subordinated Loan Stock Instruments

**"Subordinated Loan Stock Instrument"** means the instrument constituting the Zero Coupon Perpetual Subordinated Loan Stock of the Company executed on [•] and any other instrument entered into to create any other Subordinated Debt

**"Total Commitments"** means, at any particular time, the aggregate of the Commitments of all the Banks

**"Total Outstandings"** means, at any particular time, the aggregate of the outstandings of all the Banks

**"Transfer Certificate"** means, a Transfer Certificate substantially in the form set out in the Facility Agreement and which effects a novation or transfer by a Bank of any of its rights or obligations under, inter alia, the Facility Agreement to a New Bank

**"Working Capital Advance"** means, an advance made, or to be made, by ABN Amro Bank N.V. or its successors or permitted assigns under the Facility Agreement or, as the case may be, the outstanding principal amount of any such advance pursuant to the Working Capital Facility

**"Working Capital Bank"** means ABN AMRO Bank N.V. or its successor or permitted assigns

**"Working Capital Commitment"** means, in relation to a Working Capital Bank and subject to the terms of the Facility Agreement, the amount set opposite its name at the end of the Facility Agreement under the heading "Working Capital Commitment" or, as the case may be, the amount of Working Capital commitment acquired by it pursuant to a Transfer Certificate

**"Working Capital Facility"** means a facility in an aggregate amount not exceeding £300,000 granted

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- by ABN AMRO Bank N.V. to the Company pursuant to the Facility Agreement

**"Working Capital Outstandings"** means, in relation to a Bank at any particular time, the aggregate principal amount of its share of all (if any) Working Capital Advances outstanding at that time

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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. 03241233

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A LEGAL CHARGE DATED THE 3rd MARCH 1997 AND CREATED BY ECD (COOKHAM WOOD) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ABN AMRO BANK N.V. (AS TRUSTEE FOR THE BANKS SECURED CREDITORS) UNDER OR CONNECTION WITH ANY BANKS FINANCING DOCUMENT WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 10th MARCH 1997.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 12th MARCH 1997.

A. P. GODDARD

for the Registrar of Companies

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