

M

COMPANIES FORM No. 395 Particulars of a mortgage or charge

395

Please do not
write in this
margin

Pursuant to section 395 of the Companies Act 1985

CHA 233

To the Registrar of Companies

For official use

Company Number



3266637

Name of company

MMO UK Limited

*insert full
name of
company

Date of creation of the charge

15 May 1998

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

Amendment and Restatement Lloyd's American Surplus or Excess Lines Insurance Joint Asset Trust Deed ("the Trust Deed") dated September 7, 1995 (as supplemented by a Deed of Accession made 15 May 1998) made or expressed to be made among
(continued on Continuation Sheet).

Amount secured by the mortgage or charge

1. The payment of all expenditure and fees of the Trustee including, without limitation, legal fees and expenses actually incurred by or on behalf of the Trustee in connection with its administration, preservation or conservation of the Trust and its counsel's fees and expenses and other disbursements incurred in administering, preserving or conserving the Trust ("Trustee Priority Claims"); provided, however, that this amount shall not exceed US\$4,000,000 or 4% of the value of the Trust, whichever is less. The Company irrevocably grants to the Trustee a first priority security interest and a lien upon the lesser of (i) US\$4,000,000 or (ii) 4% of the value of the Trust.
2. The payment of any amount in excess of the amount necessary to satisfy Trustee Priority Claims (as limited by the proviso in (1) above), in respect of Matured Claims.
(continued on Continuation Sheet).

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

The Trustee (being, as at the date hereof, Citibank N.A. of 10011 Wall Street, New York, NY USA), Lloyd's of One Lime Street, London, England, the Policyholders, all Third Party Claimants, and
(continued on Continuation Sheet).

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

Lloyd's
One Lime Street
London
EC3M 7HA

ref: Legal Services Department

For official use
Mortgage Section

Post room

Time critical reference



Short particulars of all the property mortgaged or charged

1. The Trust Fund.
2. Cash in US currency or specifically designated Readily Marketable Securities and/or Letters of Credit substituted by Current Contributors at any time for any cash or assets then forming part of the Trust Fund.
3. Cash drawn down on any Letter of Credit at any time and held as an asset of the Trust Fund pursuant to the terms of the Trust Deed.
4. Further contributions to the Trust Fund received by the Trustee from time to time and held subject to the terms and conditions of the Trust Deed.
5. Any advance of cash or securities by the Trustee to the Trust Fund from time to time and at any time in order to effect or expedite the purchase or sale of securities for the Trust, and the property so purchased and the proceeds from the sale.
6. Any investments or other assets held by the Trustee under the Trust Deed in the name of a nominee.
7. All interest, dividends and other income resulting from the investment of the property in the Trust Fund, so far as necessary to maintain the Trust Fund Minimum Amount and honour the Trustee's interests provided in the Trust Deed.

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)

J. T. C. Butler

Signed _____ Date 03 June 1998
On behalf of [company] [mortgagee/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.

Please do not
write in this
margin

COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)

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

CHA 233

Company Number

3266637

Name of company

MMO UK Limited

*insert full
name of
company

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

(i) Lloyd's, having its principal office at One Lime Street, London, England (ii) each of the Grantors, and including the Company and (iii) Citibank N.A., a national banking organisation organised and existing under the laws of the United States of America and having its principal offices at New York, New York ("the Trustee"), as amended from time to time by the Council with the prior written consent of the Domiciliary Commissioner.

"Grantor" means a person who is a Current Contributor to the Trust Fund at the date of the Trust Deed and a person becoming a Current Contributor to the Trust Fund after the date of the Trust Deed.

"Trust Fund" or "Trust" means the cash, Readily Marketable Securities and Letters of Credit, or any combination thereof, in the actual and sole possession of the Trustee and held under the provisions of the Trust Deed.

"Current Contributors" means those persons (whether individuals or bodies corporate and whether or not Underwriters) whose contributions to the Trust Fund constitute the principal of the Trust Fund for the time being.

"Underwriter" means underwriters at Lloyd's London and such former underwriters at Lloyd's London as continue to have underwriting business at Lloyd's not fully wound up and the personal representatives or trustee in bankruptcy of any such underwriter or former underwriter who has died or become bankrupt.

"Readily Marketable Securities" means securities readily marketable on regulated United States national or principal regional security exchanges or those determined by the Securities Valuation Office of the National Association of Insurance Commissioners to have substantially equivalent liquidity characteristics.

"Letters of Credit" means a clean, unconditional, irrevocable letter of credit in favour of the Trustee which satisfies the requirements of New York Insurance Law and which is issued or confirmed by a Qualified United States Financial Institution.

"Qualified United States Financial Institution" means an institution that:

- (a) is organised and licensed (or in the case of a US office of a foreign banking organisation, licensed) under the laws of the United States or any state thereof; and
- (b) is regulated, supervised and examined by US federal or state authorities having regulatory authority over banks and trust companies; and
- (c) has been determined by the Securities Valuation Office of the National Association of Insurance Commissioners as an acceptable financial institution.

All expressions identified in this Form have the meanings given unless the context otherwise requires.

Reference to any provision of the Trust Deed shall after the coming into force of any amendment of that provision of the Trust Deed be read (unless the context otherwise requires) as referring to the amended provision or to the Trust Deed as so amended (as the case may be).

Please do not
write in this
margin

COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)

Continuation sheet No 2
to Form No 395 and 410 (Scot)

CHA 233

Company Number

3266637

Name of company

*insert full
name of
company

MMO UK Limited

Amount due or owing on the mortgage or charge (continued)

3. The payment of Losses.
4. Transfers by the Trustee at the direction from time to time of the Council of any funds in excess of the Trust Fund Minimum Amount to each trust fund relating to the Lloyd's underwriting business of the Current Contributors from which one or more Current Contributions have been made and to each Current Contributor who has made one or more direct Current Contributions.
5. Repayment of the cash or securities advanced by the Trustee (in its individual capacity or through any subsidiary, affiliate or associate of the Trustee) to the Trust to effect or expedite or in connection with the purchase or sale of securities for the Trust, the property so purchased or the proceeds from the sale being security for repayment of the cash or securities advanced and the Trustee (in its individual capacity or through any subsidiary affiliate or associate of the Trustee) being further entitled to reimbursement from the Trust as a Trustee Priority Claim.
6. Transfers by the Trustee to the Domiciliary Commissioner (to be applied in accordance with the laws of the State of New York applicable to the liquidation of insurance companies) or other designated Receiver pursuant to an order of the Domiciliary Commissioner or court of competent jurisdiction of all of the assets of the Trust Fund except those assets which are necessary to satisfy the Trustee's Priority Claims or to reimburse the Trustee for funds or securities advanced pursuant to paragraph 3.18 of the Trust Deed.

"American Policy" shall mean

- (i) any contract or policy of insurance issued or any agreement to insure made by one or more Underwriters pursuant to surplus lines or excess lines laws of any US jurisdiction which is issued to a Policyholder, as defined herein, providing insurance with respect to property or risks situated in a state, district, territory, commonwealth or possession of the United States in which Underwriters are not licensed to do an insurance business; provided that, with the exception of such Policies attaching on or prior to November 15, 1995 underwritten under any binding authority incepting prior to August 1, 1995, and subject to (ii) below, such Policy shall not include any contract or policy of insurance (of any agreement to insure) incepting on or after August 1, 1995, which is (or is to be) underwritten by Underwriters on or after August 1, 1995; or
- (ii) any contract or policy of insurance or any agreement to insure which satisfies the definition of an American Policy as set forth in Lloyd's United States Situs Surplus Lines Trust Deed dated 7 September 1995 (as amended from time to time).

"Claim" shall mean: (i) a claim against one or more Underwriters by a Policyholder or Third Party Claimant, for a loss under an American Policy excluding punitive and/or exemplary damages awarded against a Policyholder and also excluding any extracontractual obligations not expressly covered by the American Policy; and/or (ii) a claim against one or more Underwriters by a Policyholder for the return of unearned premium under an American Policy; both (i) and (ii) constituting a loss under an American Policy ("Loss").

"Policyholders" means the holders of an American Policy resident or doing business in the United States, and any other persons or associations who are assignees, pledgees or mortgagees named therein.
(continued on Continuation Sheet).

Please do not
write in this
margin

Amount due or owing on the mortgage or charge (continued)

"Council" shall mean the Council of Lloyd's or the Committee of Lloyd's or the Chairman or a Deputy Chairman of Lloyd's as the case may be or such other person or persons (including Lloyd's Signatory) as are for the time being authorised by the Council of Lloyd's to exercise any power or discretion which is vested in the Council by the Trust Deed.

"Domiciliary Commissioner" shall mean the Chief Regulatory Officer for Insurance of the United States jurisdiction in which the Trust Fund is principally maintained and administered (namely the State of New York).

"Matured Claim" shall mean a Claim which is enforceable against the Trust Fund as provided for in paragraph 2.3 of the Trust Deed.

"Receiver" shall mean the Domiciliary Commissioner or such other person as may be designated as such by statute or ordered by a court of competent jurisdiction.

"Trust Fund Minimum Amount" shall mean the minimum amount which Underwriters are required by law to maintain in the Trust Fund, as notified by the Council to the Trustee in writing and in the minimum sum of US\$104,000,000.

"Third Party Claimant" means one not a party to the insurance contract but having a final judgment from any court of competent jurisdiction from which no appeal can be filed against Underwriters for claims arising from an American Policy.

"Lloyd's Signatory" means the person or persons for the time being authorised by the Council of Lloyd's for that purpose and designated in writing to the Trustee (pursuant to authority given by the Underwriters) to act on behalf of Underwriters and Current Contributors under the Trust Deed and to give or receive any notice or certification to Underwriters and Current Contributors under the Trust Deed.

Please do not
write in this
margin

COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)

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

CHA 233

Company Number

3266637

Name of company

MMO UK Limited

*insert full
name of
company

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

- (1) those to whom any amount is or may at any time become payable to satisfy Trustee Priority Claims or claims to be treated as Trustee Priority Claims under the Trust Deed;
- (2) those to whom any amount is or may at any time become payable to satisfy Matured Claims;
- (3) those for whose benefit any trust fund relating to the Lloyd's underwriting business of Current Contributors is at any time held, and the trustees of any such trust fund;
- (4) the Domiciliary Commissioner and any designated Receiver;
- (5) any subsidiary, affiliate or associate of the Trustee;
- (6) those for whose benefit any order for any transfers by the Trustee to the Domiciliary Commissioner or other designated Receiver of assets of the Trust Fund except those assets which are necessary to satisfy the Trustee's Priority Claims may be made by the Domiciliary Commissioner or court of competent jurisdiction.

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03266637

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A CHARGE DATED 15TH MAY 1998 IN THE TERMS OF THE AMENDMENT AND RESTATEMENT LLOYD'S AMERICAN SURPLUS OR EXCESS LINES INSURANCE JOINT ASSET TRUST DEED (THE "TRUST DEED") ITSELF CONSTITUTED BY AN INSTRUMENT DATED 7TH SEPTEMBER 1995 (AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME) AND AS SUPPLEMENTED BY A DEED OF ACCESSION DATED THE 15th MAY 1998 AND CREATED BY MMO UK LIMITED FOR SECURING (A) THE PAYMENT OF LOSSES UNDER: (i) ANY CONTRACT OR POLICY OF INSURANCE ISSUED BY ONE OR MORE MEMBERS OR PAST MEMBERS OF LLOYD'S PURSUANT TO SURPLUS LINES OR EXCESS LINES LAWS OF ANY UNITED STATES JURISDICTION WHICH IS ISSUED TO A POLICYHOLDER RESIDENT OR DOING BUSINESS IN THE UNITED STATES AND PROVIDING INSURANCE WITH RESPECT TO PROPERTY OR RISKS SITUATED IN A STATE, DISTRICT, TERRITORY, COMMONWEALTH OR POSSESSION OF THE UNITED STATES PROVIDED THAT, WITH THE EXCEPTION OF SUCH CONTRACTS OR POLICIES ATTACHING ON OR PRIOR TO 15 NOVEMBER 1995 UNDERWRITTEN UNDER ANY BINDING AUTHORITY INCEPTING PRIOR TO 1ST AUGUST 1995 AND SUBJECT TO (ii) BELOW, SUCH CONTRACTS OF POLICIES SHALL NOT INCLUDE ANY CONTRACT OR POLICY OF INSURANCE INCEPTING ON OR AFTER 1ST AUGUST 1995 WHICH IS UNDERWRITTEN BY MEMBERS ON OR AFTER THAT DATE, OR (ii) ANY CONTRACT OR POLICY WHICH SATISFIES THE DEFINITION OF AN AMERICAN POLICY IN LLOYD'S UNITED STATES SITUS SURPLUS LINES TRUST DEED (AS AMENDED FROM TIME TO TIME), (AN "AMERICAN POLICY"); (B) RETURNS OF UNEARNED PREMIUM UNDER AN AMERICAN POLICY; (C) ALL EXPENDITURES AND FEES OF THE TRUSTEE (AS DEFINED IN THE TRUST DEED AND BEING, AS AT THE DATE THEREOF, CITIBANK N.A. OF 111 WALL STREET, NEW YORK, U.S.A.); (D) REPAYMENT OF CASH OR SECURITIES ADVANCED BY THE TRUSTEE TO THE TRUST HELD UNDER THE PROVISIONS OF THE TRUST DEED; (E) CERTAIN TRANSFERS BY THE TRUSTEE TO OTHER TRUST FUNDS OR TO THE CHIEF REGULATORY OFFICER FOR INSURANCE OF THE STATE OF NEW YORK OR OTHER DESIGNATED RECEIVER, AND FOR SECURING THE OTHER AMOUNTS AND OBLIGATIONS REFERRED TO IN THE TRUST DEED WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 5th JUNE 1998.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 17th JUNE 1998.

Jennifer V Murphy
JENNIFER V MURPHY

for the Registrar of Companies



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