

## Particulars of a mortgage or charge

# 395

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

CHFP025

Please do not  
write in  
this margin

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

\*insert full name  
of Company

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

4

03401618

Name of company

\* EPR Ely Limited (the "Company")

Date of creation of the charge

30 September 2005

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

Debenture dated 30 September 2005 (the "**Debenture**") between the Company and Royal Bank of Canada Europe Limited (the "**Security Trustee**"), as security trustee for each of the Secured Parties under the Facility Agreement.

Amount secured by the mortgage or charge

See Schedule 2 for details of the amount secured by the Debenture.  
See Schedule 1 for the definitions.

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

Royal Bank of Canada Europe Limited (as Security Trustee)  
71 Queen Victoria Street  
London

Postcode EC4V 4DE

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

Via CH London Counter  
Clifford Chance LLP  
10 Upper Bank Street  
London  
E14 5JJ

R 0010-02334/RES/JDZB/SQR

Time critical reference

For official Use (02/00)

Mortgage Section

Post room



LD2  
COMPANIES HOUSE

0486  
07/10/05

Short particulars of all the property mortgaged or charged

See Schedule 3 for details of all properties mortgaged or charged.

See Schedule 1 for definitions.

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 LLP*

Date 6 October 2005

On behalf of ~~XXXXXXXXXXXXXXXXXXXX~~ [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

**Schedule 1 to Form 395 dated 6 October 2005  
relating to the Debenture entered into by EPR Ely Limited  
(registered in England and Wales number 03401618)**

**DEFINITIONS**

In this Form 395 the following terms have the following meanings:

**"Account"** means any account opened or maintained by the Company with the Security Trustee or any other person (and any replacement account or subdivision or sub-account of that account), the debt or debts represented thereby and all Related Rights.

**"Assigned Account"** means the following Account:

EPR Ely Limited Current Account (account number 80782610, sort code 20-65-63)

(and any renewal or redesignation of each such account) maintained with Barclays Bank PLC by the Company or any other Account that may from time to time be designated as an Assigned Account by the Security Trustee.

**"Borrower"** means Energy Power Resources Limited.

**"Charged Investments"** means any Investments of the Company other than (i) shares in the capital of Anglian Straw Limited and Ely Power Limited or (ii) warrants, options or other rights to subscribe for or acquire any such shares referred to in (i) above.

**"Facility Agreement"** means the Facility Agreement dated 30 September 2005 between, inter alios, the Company, Royal Bank of Canada as the Arranger, Royal Bank of Canada as the Original Lenders, Royal Bank of Canada Europe Limited as the Facility Agent and Royal Bank of Canada Europe Limited the Security Trustee, as amended, varied, novated or supplemented from time to time.

**"Finance Document"** means the Facility Agreement, the Mandate Letter, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Hedging Letter, the Intercreditor Agreement, the British Gas Deed of Priority, the British Gas Direct Agreement, the Priorities Agreement, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a "Finance Document" by the Facility Agent and the Borrower.

**"Hedge Counterparty"** means Macquarie Bank Limited or Royal Bank of Canada or an Affiliate of Macquarie Bank Limited or Royal Bank of Canada or any Lender or an Affiliate of a Lender.

**"Insurance Policy"** means any policy of insurance (including life insurance or assurance) in which the Company may at any 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 entered into on 30 September 2005 and made between the Company, the Security Trustee, the Facility Agent, the Lenders, the Hedge Counterparties and certain others.

**"Investments"** means:

- (a) any stocks, shares, debentures, securities and certificates of deposit;
- (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 security trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such security trustee, nominee, fiduciary or clearance system).

**"Monetary Claims"** means any book and other debts and monetary claims owing to the Company and any proceeds of such debts and claims (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 legal charge in respect of all or any part of the Real Property in accordance with the Debenture.

**"Real Property"** means:

- (a) any freehold, leasehold or immovable property (including the freehold and leasehold property in England and Wales specified in Schedule 1 of the Debenture); 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 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 Parties"** has the meaning assigned to it in the Intercreditor Agreement.

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"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 to Form 395 dated 6 October 2005**

**AMOUNT SECURED BY THE MORTGAGE OR CHARGE**  
**(the "Secured Obligations")**

All obligations which the Borrower may at any time have to the Security Trustee (whether for its own account or as trustee for the Secured Parties) or any of the other Secured Parties under or pursuant to the *Finance Documents* (including the *Debenture* and the *Mortgage*) including any liability in respect of any further advances made under the *Finance Documents*, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity) and the Company shall pay to the Security Trustee when due and payable every sum at any time owing, due or incurred by the Company to the Security Trustee (whether for its own account or as trustee for the Secured Parties) or any of the other Secured Parties in respect of any such liabilities

**Schedule 3 to Form 395 dated 6 October 2005**

**SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED  
FIXED CHARGE, ASSIGNMENTS AND FLOATING CHARGE**

In the terms of the Debenture the Company:

- (a) Charged with full title guarantee in favour of the Security Trustee as trustee for the Secured Parties with 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:
  - (i) the Real Property;
  - (ii) the Tangible Moveable Property;
  - (iii) the Accounts;
  - (iv) the Intellectual Property;
  - (v) any goodwill and rights in relation to the uncalled capital of the Company;
  - (vi) the Charged Investments;
  - (vii) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the Debenture.
- (b) Assigned and agreed to assign absolutely with full title guarantee to the Security Trustee 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:
  - (i) the proceeds of any Insurance Policy and all Related Rights; and
  - (ii) all rights and claims in relation to any Assigned Account.
- (c) Charged with full title guarantee charges in favour of the Security Trustee 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 (other than any Investments referred to in paragraph (i) and (ii) of the definition of "Charged Investments").
- (d) The floating charge created by the Debenture is deferred in point of priority to all fixed Security validly and effectively created by the Company under the Finance Documents in favour of the Security Trustee as trustee for the Secured Parties as security for the Secured Obligations.

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to the Debenture.

**NEGATIVE PLEDGE**

The Debenture contains a negative pledge clause.

**FURTHER ASSURANCE**

The Debenture contains a further assurance clause.



FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03401618

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 30th SEPTEMBER 2005 AND CREATED BY EPR ELY LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE BORROWER AND THE COMPANY TO ROYAL BANK OF CANADA EUROPE LIMITED (SECURITY TRUSTEE) WHETHER FOR ITS OWN ACCOUNT OR AS TRUSTEE FOR THE SECURED PARTIES OR ANY OF THE OTHER 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 7th OCTOBER 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 12th OCTOBER 2005.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —

A handwritten signature in ink, appearing to be 'M. J. C.'.