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COMPANIES FORM No. 395

395

Particulars of a mortgage or charge

Please do not
write in
this margin

Pursuant to section 395 of the Companies Act 1985

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

To the Registrar of Companies
(Address overleaf - Note 5)

For official use

Company number

U18

3454201

Name of company

* insert full name
of Company

* **SUMMERHILL PROPERTIES LIMITED (the "Borrower")**

Date of creation of the charge

21 September 1998

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

Debenture (the "Debenture")

Amount secured by the mortgage or charge

See Continuation Sheet 1

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

Barclays Bank PLC (the "Bank") acting through its specialist Property
Finance Team at 54 Lombard Street, London

Postcode EC3P 3AH

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

Herbert Smith
Exchange House
Primrose Street
London EC2A 2HS
Ref: 321/C461/30739668

Time critical reference

For official Use
Mortgage Section



Short particulars of all the property mortgaged or charged

See Continuation Sheet 2

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

Herbert Smith

Date

25-9-98

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.
- 5 The address of the Registrar of Companies is:-

Companies House, Crown Way, Cardiff CF4 3UZ

CONTINUATION SHEET 1

SUMMERHILL PROPERTIES LIMITED
COMPANY REGISTRATION NUMBER: 3454201
AMOUNT SECURED BY THE MORTGAGE OR CHARGE

The aggregate of:

- (A) all monies, costs, charges, expenses, liabilities and obligations whether certain or contingent which are now or hereafter may be or become due and owing by the Borrower to the Bank (in whatever currency they may be expressed) of the Borrower to the Bank (whether incurred solely, severally, or jointly with others and whether incurred as principal or surety) including (without limitation) all monies advanced on any current, loan or other account (whether existing or opened at any time after the date of the Debenture) and shall include all the obligations due by the Borrower hereunder to be paid by the Borrower to the Bank;
- (B) any interest accrued in respect of the amounts and liabilities referred to in (A) above both prior to demand and from the date of demand to the date of payment as well after as before judgement (whether any of the same shall have been capitalised or not); and
- (C) all damages, charges, commission and legal and other expenses incurred in any manner whatsoever by the Bank in relation to the said indebtedness and liabilities on a full indemnity basis (the **"Secured Obligations"**).

CONTINUATION SHEET 2

SUMMERHILL PROPERTIES LIMITED

COMPANY REGISTRATION NUMBER: 3454201

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

1. SECURITY

1.1 Legal mortgage and equitable charge

The Borrower, with full title guarantee, hereby (and to the intent that the security so constituted shall be a continuing security in favour of the Bank) charges in favour of the Bank as security for the payment and discharge of the Secured Obligations by way of first legal mortgage the Property and the Fixtures and the benefit of covenants for title and any contract and moneys paid in respect of them.

1.2 Fixed Charges

The Borrower, with full title guarantee, hereby (and to the intent that the security so constituted shall be a continuing security in favour of the Bank) assigns and agrees to assign in favour of the Bank as security for the payment and discharge of the Secured Obligations by way of first fixed charge:-

1.2.1 its present and future interest and benefit in and to the Management Agreement, the Building Contract, the Professional Appointments and any other Development Documents;

1.2.2 its present and future interest and benefit in and to all Rental Income and Sales Proceeds received or receivable in respect of the Property; and

1.2.3 all other rights and claims to which the Borrower is now or may hereafter become entitled in relation to the Property and the benefit of all guarantees, warranties and representations given or made by and any rights or remedies against all or any of the manufacturers, suppliers or installers of any Fixtures,

PROVIDED THAT the Bank shall not, as a result of the assignments set out above, become or be deemed to have become a mortgagee in possession or have imposed on it any of the liabilities or would be imposed on it were it a mortgagee in possession.

1.3 Floating Charge

The Borrower, with full title guarantee, hereby (and to the intent that the security so constituted shall be continuing security in favour of the Bank) charges in favour of the Bank as security for payment and discharge of the Secured Obligations by way of first floating charge the whole of the Borrower's undertaking and all its property, rights and assets whatsoever and wheresoever present and future including, without limitation, the Operating Account and the Development Account.

2. NEGATIVE PLEDGE

The Borrower will not, without the prior written consent of the Bank, create or permit to subsist any Encumbrance on or in relation to the Property or any part thereof or any income therefrom or on or in relation to any of the Charged Property, other than any Encumbrance created pursuant to or as contemplated by the Security Documents

CONTINUATION SHEET 3

SUMMERHILL PROPERTIES LIMITED

COMPANY REGISTRATION NUMBER: 3454201

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

(including, without limitation the debenture in favour of Town and County Factors Limited) and any Encumbrance arising in the ordinary course of business by operation of law and any Encumbrance in favour of the Bank or any Encumbrance in existence at the date of the Debenture.

3. BORROWER'S COVENANTS

The Borrower covenants with the Bank that the Borrower will at all times while there shall subsist any security constituted by or pursuant to the Debenture:-

3.1 Comply with obligations under documents

Perform and comply with its obligations pursuant to the Loan Agreement, the Management Agreement, the Security Documents, the Building Contract, the Professional Appointments and any other Development Documents in connection with the Development.

3.2 Alterations

Save in carrying out the Works, not at any time to effect carry out or permit any demolition, reconstruction or rebuilding of or any material structural alteration to or material change in the use of the Property nor sever, unfix or remove any of the Fixtures (except for the purpose and in the course of effecting necessary repairs thereto or of replacing the same with new or improved models or substitutes).

CONTINUATION SHEET 4

SUMMERHILL PROPERTIES LIMITED
COMPANY REGISTRATION NUMBER: 3454201

Definitions

"Architect" means Powell Dobson Partnership of Charter House, Links Business Park, Fortran Road, St Mellons, Cardiff or any other firm of architects approved by the Bank (such approval not to be unreasonably withheld or delayed) as the Borrower may appoint in connection with the Development in addition to or in place of such architects;

"Borrower" means Summerhill Properties Limited, Company Registration Number 3454201 and includes its successors in title and assigns and those deriving title from the Borrower or party otherwise entitled to redeem the security constituted by the Debenture;

"Building Consents" means all authorisations required in connection with the carrying out and completion of the Development and the use and occupation of any part of the Property;

"Building Contract" means the fixed price design and build contract or such other form of building contract as may, with the consent of the Bank (which shall not be unreasonably withheld or delayed) be made, or to be made, between the Borrower and the Building Contractor for the purpose of carrying out the whole of the Development and approved by the Monitoring Surveyor on behalf of the Bank;

"Building Contractor" means Tarmac Construction Limited, a company registered in England and Wales with its registered address at Construction House, Wolverhampton, WV1 4HY and company number 594581; or such other building contractor approved in writing by the Bank (such approval not to be unreasonably withheld or delayed) which is employed by the Borrower for the carrying out of the Development;

"Charged Property" means the property, assets and income of the Borrower for the time being assigned or charged whether by way of legal mortgage, fixed or floating charge or assignment to the Bank pursuant to the Debenture;

"Contractors" means the Building Contractor and all other contractors approved by the Bank (such approval not to be unreasonably withheld or delayed) and employed by or on behalf of the Borrower in connection with the carrying out and completion of the Works (and references to a **"Contractor"** shall be construed accordingly);

"Collateral Warranty" means any collateral warranty agreement entered into or to be entered into by each Contractor and each member of the Professional Team in favour of the Bank, in each case in the form agreed prior to the date hereof or, if not so agreed, in a form reasonably satisfactory to the Bank;

"Deed of Subordination" means the deed of subordination dated on or about the date of the Debenture entered into between (1) the Bank; (2) the Borrower and (3) each Junior Creditor (as defined therein);

"Development" means the Property and the Works to be carried out thereon;

"Development Account" means the account to be opened in the books of the Bank with respect to the facility granted to the Borrower pursuant to the Loan Agreement in the name of the Borrower (being account number 00696927 at PO Box 69, 121 Queen Street, Cardiff

CONTINUATION SHEET 5

SUMMERHILL PROPERTIES LIMITED COMPANY REGISTRATION NUMBER: 3454201

CF1 1SG (Sorting Code no. 20-18-27)) which expression shall also include any additional accounts or account in substitution therefor;

"Development Document" means, in relation to the Development, any of:

- (a) the Building Contract;
- (b) each Collateral Warranty
- (c) the Professional Appointments;
- (d) the Management Agreement;
- (e) any document entered into pursuant to a document in paragraphs (a) to (d) above; and
- (f) any other document designated as such in writing by both the bank and the Borrower;

"Direct Agreement" means the agreement dated on or about the date of the Debenture made between (1) the Borrower, (2) the Bank and (3) LHL;

"Employer's Agent" means Messrs Tweeds of Churchill House, 160 New Bond Street, London W1Y 9PA or such other person or firm approved by the Bank (such approval not to be unreasonably withheld or delayed) as the Borrower may appoint as its agent in connection with the Development in addition to or in substitution of such agent;

"Encumbrance" means any mortgage, charge, pledge, lien, assignment, hypothecation, preferential right, trust arrangement or other security interest or encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title, transfer and retention arrangements) or any other agreement or arrangement having a similar effect;

"Fixtures" includes all fixtures, fittings (including trade fixtures and fittings but not including tenants' fixtures and fittings) plant, machinery, equipment, installation and apparatus (other than tenant's fixtures and fittings) now and from time to time in or on or belonging to the Property which are in the legal or beneficial ownership of the Borrower;

"Guarantee" means the guarantee dated on or about the date of the Debenture and executed or to be executed by (1) TBI plc (company number 1064763) in favour of (2) the Bank;

"Hotel" means the hotel the subject of the Management Agreement to be operated on the Property;

"LHL" means Ladbroke Hotels Limited, a company registered in England and Wales with its registered office at Maple Court, Central Park, Reeds Crescent, Watford, Herts WD1 1HZ and company number 81009;

"Loan Agreement" means the agreement dated on or about the date of the Debenture entered into between (1) the Borrower and (2) the Bank;

CONTINUATION SHEET 6

SUMMERHILL PROPERTIES LIMITED COMPANY REGISTRATION NUMBER: 3454201

"Management Agreement" means the document so entitled dated 8 December 1997 between the Borrower and Hilton International Co. relating to the "Cardiff Hilton" as supplemented by letters dated 12 January 1998 and 16 January 1998, an assignment dated 20 January 1998 by Hilton International Co. in favour of LHL and a Deed of Adherence dated 20 February 1998 between the Borrower and LHL;

"Monitoring Surveyor" means MDA Group plc of Stonebridge House, Colston Avenue, Bristol BS1 4TN or such other person as may be appointed and notified to the Borrower as such for the purposes of the Loan Agreement from time to time by the Bank;

"Operating Account" means the account to be opened in the books of the Bank in the name of the Borrower (over which LHL is to have sole signing rights) into which all revenue and income from the Hotel and the Property is to be deposited and from which all operating costs and expenses relating to the Hotel and the Property are to be paid in accordance with the Management Agreement (being account number 30295914 at PO Box 69, 121 Queen Street, Cardiff CF1 1SG (Sorting Code no. 20-18-27)) which expression shall also include any additional accounts or account in substitution therefor or additional accounts which may be opened under the terms of the Management Agreement;

"Planning Acts" means the Town and County Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990, The Planning (Hazardous Substances) Act 1990, The Planning (Consequential Provisions) Act 1990, The Planning and Compensation Act 1991 and any subsequent legislation of a similar nature;

"Planning Permission" means the relevant planning permission (or permissions) granted in respect of the Property and, where applicable, the Development in accordance with the Planning Acts and under all building and other regulations and bye-laws so far in each case as the same affect the Property or the user of the Property;

"Plans and Specifications" means all the drawings, plans, elevations, specifications/bills of quantities and engineering calculations for or relating to the Development prepared by the Professional Team and includes (where the context permits) any substitute plans and specifications substituted therefor and/or any amendments, variations or additions thereto which, if material, are accepted by the Bank;

"Professional Appointment" means any agreement or contract entered into, whether before, on or after the date of the Loan Agreement by the Borrower for the appointment or engagement of any member of the Professional Team;

"Professional Team" means the Architect, the Employer's Agent and any other professional advisers acceptable to the Bank (such acceptance not to be unreasonably withheld or delayed) for the time being engaged by the Borrower in connection with the Works;

"Property" means all the land situate at The Friary, Kingsway Cardiff registered with absolute freehold title under the number WA760939 at the Land Registry for Wales together with all fixed plant and machinery and fixtures thereto and all and any proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title together with any moneys payable in respect of such covenants;

CONTINUATION SHEET 7

SUMMERHILL PROPERTIES LIMITED
COMPANY REGISTRATION NUMBER: 3454201

"Rental Income" means at any time the aggregate of the gross rents, licence fees and other sums and monies now or at any time hereafter receivable by the Borrower in respect of or arising out of any and all lettings of the Property or otherwise derived from the Property by the Borrower but excepting insurance rents, service charge or other monies received by the Borrower on trust;

"Sales Proceeds" means any proceeds of sale or disposition of the Property; and

"Security Documents" means the Debenture, the Guarantee, the Direct Agreement and the Deed of Subordination, and, where the context admits, shall include any further legal or other charge or other security or assurance granted to the Bank in respect of the obligations of the Borrower under the Loan Agreement pursuant to the terms of the Loan Agreement or any of the aforesaid documents or otherwise;

"Statutory Requirements" means any provision or requirement of any Act of Parliament or any instrument, rule or order made under any Act of Parliament or any regulation or bye-law of any other competent authority or of any statutory undertaking or company which has jurisdiction in relation to the carrying out, use, occupation or operation of the whole or any part of the Property or the Works or with whom systems are or will be connected;

"Works" means the redevelopment works to be carried out on the Property in accordance with the Building Contract, the Statutory Requirements, the Plans and Specifications, the Planning Permissions and the Building Consents.

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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. 03454201

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 21st SEPTEMBER 1998 AND CREATED BY SUMMERHILL PROPERTIES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO BARCLAYS BANK PLC ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 25th SEPTEMBER 1998.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 29th SEPTEMBER 1998 .


D. JENKINS

for the Registrar of Companies



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

HC026B

CP
29/9/98