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## COMPANIES FORM No. 395

### 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.

Pursuant to section 395 of the Companies Act 1985

019359/403

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

For official use

Company number

13

3577582

Name of company

\* NCP South East & East Anglia Limited (the "Company")

Date of creation of the charge

17 October 2005

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

Debenture (the "Debenture")

Amount secured by the mortgage or charge

See Part II of the attached Schedule (and the definitions in Part I of the Schedule)

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

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

Postcode EC4V 4DE

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

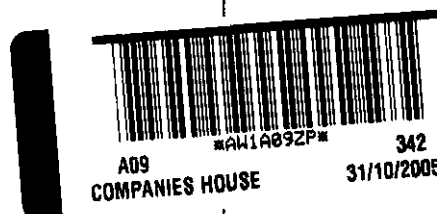
Baker & McKenzie LLP  
100 New Bridge Street  
London  
EC4V 6JA

PZK/IWJ

Time critical reference

For official Use (02/00)  
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

Specified in Part III of the attached Schedule (and the definitions in Part I of the Schedule)

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 *Baker & McKenzie LLP*

Date 27 October 2005

On behalf of ~~XXXXXXXXXXXXXXXXXXXX~~ † the Security Trustee

A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

Notes

† delete as appropriate

- 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 TO FORM 395

### PART I

#### DEFINITIONS

In addition to terms defined elsewhere in this Form, the following terms have the following meanings:

<b>"Account"</b>	means any account opened or maintained by the Company with the Security Trustee or any other financial institution (and any replacement account or subdivision or sub-account of that account) and all Related Rights.
<b>"Agent"</b>	means the Senior Agent and/or, after the execution of the Junior Facility Agreement, the Junior Agent, as the case may be.
<b>"Assigned Account"</b>	means any Account that may from time to time be designated in writing as an Assigned Account by the Security Trustee and the Company.
<b>"Charged Property"</b>	means all the assets and undertaking of the Company which from time to time are the subject of the security created or expressed to be created in favour of the Security Trustee by or pursuant to the Debenture.
<b>"Collateral Rights"</b>	means all rights, powers and remedies of the Security Trustee provided by or pursuant to the Debenture or by law.
<b>"Group"</b>	means Oval (2040) Limited and its subsidiaries for the time being.
<b>"English Real Property"</b>	means the Real Property situated in England and Wales specified in Part IV of this Schedule, if any.
<b>"Facility Agreements"</b>	means the Senior Facilities Agreement and, after its execution, the Junior Facility Agreement.
<b>"Finance Documents"</b>	means the Senior Finance Documents and/or, after their execution, the Junior Finance Documents, as the case may be.
<b>"Insurance Policy"</b>	means any policy of insurance in which the Company may from time to time have an interest.
<b>"Intellectual Property"</b>	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 but only to the extent such rights and interests may be charged in accordance with their terms.

**"Investments"**

means:

- (a) any stocks, shares, debentures, securities and certificates of deposit (but not including the Shares);
- (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 by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system) excluding for the purposes of the Debenture any Investment held by the Company in NCP Empire No 4 Limited.

**"Junior Agent"**

means the Agent as defined in the Junior Facility Agreement.

**"Junior Facility Agreement"**

means, once executed, the junior facility agreement, on terms to be agreed, to be made between *inter alia*, the Company and the Agent.

**"Junior Finance Documents"**

means the Finance Documents as defined in the Junior Facility Agreement.

**"Lender"**

means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with the Senior Facilities Agreement

which in each case has not ceased to be a Party in accordance with the terms of the Senior Facilities Agreement.

**"Material Real Property"**

means:

- (a) the Real Property specified in Part IV of this Schedule, if any; and
- (b) any Real Property which has been or is required to be the subject of a Mortgage.

**"Monetary Claims"**

means any book and other debts and monetary claims (but excluding the right to any monies held in a Specified Account) 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).
<b>"Mortgage"</b>	means a mortgage or legal charge in respect of all or any part of the Real Property satisfying the Real Property Criteria in the form set out in the Debenture.
<b>"Original Lender"</b>	means Royal Bank of Canada.
<b>"Party"</b>	means a party to the Senior Facilities Agreement.
<b>"Real Property"</b>	means: <ul style="list-style-type: none"> <li>(a) any freehold, leasehold or immovable property; and</li> <li>(b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property,</li> </ul> including all Related Rights and any such property subsequently acquired by the Company.
<b>"Real Property Criteria"</b>	means Real Property owned or acquired by the Company where: <ul style="list-style-type: none"> <li>(a) the market value of such Real Property owned or the consideration paid for such Real Property acquired is £500,000 or more; or</li> <li>(b) the rental value of such Real Property is not less than £100,000 per annum.</li> </ul>
<b>"Related Rights"</b>	means, in relation to any asset: <ul style="list-style-type: none"> <li>(a) the proceeds of sale of any part of that asset (where such proceeds exceed £25,000);</li> <li>(b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;</li> <li>(c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and</li> <li>(d) any monies and proceeds paid or payable in respect of that asset.</li> </ul>
<b>"Secured Parties"</b>	means the Secured Parties as defined in the Senior Facilities Agreement and, after its execution, the Junior Facility Agreement.
<b>"Security"</b>	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement entered into for the purpose of and having the effect of providing security.

<b>"Senior Agent"</b>	means the Agent as defined in the Senior Facilities Agreement.
<b>"Senior Facilities Agreement"</b>	means the £385,000,000 senior facilities agreement dated 31 August 2005 made between, <i>inter alia</i> , Oval (2041) Limited, Royal Bank of Canada as arranger, the Original Lender (as defined therein) and Royal Bank of Canada Europe Limited as agent and security trustee, as amended, varied, novated or supplemented from time to time.
<b>"Senior Finance Documents"</b>	means the Finance Documents as defined in the Senior Facilities Agreement.
<b>"Shares"</b>	means all of the shares identified in Part V of this Schedule, if any.
<b>"Specified Account"</b>	means any account which is subject to a pooling arrangement entered into by a company for the purpose of netting debit and credit balances as part of an overdraft facility comprising more than one account and which the Security Trustee agrees may be designated as a Specified Account.
<b>"Tangible Moveable Property"</b>	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) owned by the Company and all Related Rights.

## Part II

### AMOUNT SECURED BY MORTGAGE OR CHARGE

By Clause 2.1 of the Debenture (*Covenant to pay*) :

- (a) all obligations which the Company 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 the Finance Documents including any liability in respect of any further advances made by any of the Secured Parties 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
- (b) 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,

(together the "**Secured Obligations**").

## PART III

### PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

1. By Clause 3.1 of the Debenture (*Fixed Charges*), the Company 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 fixed charge (which so far as it relates to English Real Property 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:
  - (a) the Material Real Property;
  - (b) the Tangible Moveable Property;
  - (c) the Accounts;
  - (d) the Intellectual Property;
  - (e) any goodwill and rights in relation to the uncalled capital of the Company;
  - (f) the Investments;
  - (g) the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise); and
  - (h) 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,

2. By Clause 3.2 of the Debenture (*Assignments*), the Company 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:
  - (a) the proceeds of any Insurance Policy and all Related Rights; and
  - (b) all rights and claims in relation to any Assigned Account.
3. By Clause 3.3 of the Debenture (*Floating Charge*):
  - (a) the Company with full title guarantee charged in favour of the Security Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations by way of floating charge all present and future assets and undertaking of the Company;
  - (b) the floating charge referred to in paragraph 3(a) above 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; and
  - (c) paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge referred to in paragraph 3(a) above.
4. By Clause 4.1 of the Debenture (*Crystallisation: By Notice*), the Security Trustee may at any time by notice in writing to the Company convert the floating charge referred to in paragraph 3(a) above with immediate effect into a fixed charge as regards any property or assets of the Company specified in that notice if:
  - (a) an event of default has occurred and is continuing; or
  - (b) the Security Trustee reasonably considers that any of the relevant Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process (provided that, in such circumstances, the relevant notice shall only specify the Charged Property which the Security Trustee reasonably considers to be in such jeopardy or danger); or
  - (c) the Security Trustee reasonably considers that it is desirable in order to protect the priority of the security.
5. By Clause 4.2 of the Debenture (*Crystallisation: Automatic*), notwithstanding Clause 4.1 of the Debenture (*Crystallisation: By Notice*) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge as regards, in the case of paragraphs 4(a) and 4(b) below, the Charged Property referred to in such paragraphs and, in the case of paragraphs 4(c) and 4(d), all the assets subject to the floating charge if:
  - (a) the Company creates or attempts to create any Security (save as permitted by the Facility Agreements) over any of the Charged Property;
  - (b) any person levies or attempts to levy any distress, execution or other process against any of the Charged Property;



- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Company or an administrator is appointed to the Company; or
  - (d) any person (who is entitled to do so) gives notice of its intention to appoint an administrator to the Company or files such a notice with the court.
6. By Clause 5.5 of the Debenture (*Further Advances*):
- (a) subject to the terms of the Facility Agreements, each Lender is under an obligation to make further advances to the Company and that obligation will be deemed to be incorporated into the Debenture as if set out in the Debenture.
  - (b) the Company consents to an application being made to the Land Registry to enter the obligation to make further advances on the Charges Register of any registered land forming part of the Charged Property.
7. By Clause 6.1 of the Debenture (*Further Assurance: General*), the Company shall promptly after acquiring any Real Property which satisfies the Real Property Criteria, notify the Security Trustee and if the Security Trustee so requires the Company shall promptly at its own cost enter into a Mortgage over such Real Property and in the case of such Real Property which is or will be registered under the Land Registration Act 2002 apply to the Land Registry to register a Notice of such Mortgage on the Charges Register of that Real Property and to enter an Agreed Restriction of such Mortgage on the Proprietorship Register of such Real Property and the Company shall do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require in favour of the Security Trustee or its nominee(s)):
- (a) to perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by the Company of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Charged Property (provided that, in the case of Real Property, it satisfies the Real Property Criteria)) or for the exercise of the Collateral Rights;
  - (b) to confer on the Security Trustee security over any property and assets of the Company located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to the Debenture and each Mortgage (provided that, in the case of Real Property, it satisfies the Real Property Criteria); and/or
  - (c) (after the Security constituted by the Debenture has been enforced in accordance with the Debenture) to facilitate the realisation of the Charged Property.
8. By Clause 6.2 of the Debenture (*Necessary Action*), the Company shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, protection or maintenance of any security conferred or intended to be conferred on the Security Trustee by or pursuant to the Debenture and any Mortgage.
9. By Clause 7.1 of the Debenture (*Negative Pledge*), the Company has undertaken that it shall not, at any time during the subsistence of the Debenture or any Mortgage, create or permit to subsist any Security over all or any part of the Charged Property other than Security permitted pursuant to the Facility Agreements.

10. By Clause 7.2 of the Debenture (*No Disposal of Interests*), the Company has undertaken that it shall not at any time during the subsistence of the Debenture or any Mortgage, except as permitted pursuant to the Facility Agreements or by Clause 7 of the Debenture (*Negative Pledge and Disposals*):

- (a) execute any conveyance, transfer, lease or assignment of or (except in the ordinary course of business as the same is being conducted at the date hereof) other right to use or occupy all or any part of the Real Property;
- (b) create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Real Property (except in the ordinary course of business as the same is being conducted at the date hereof);
- (c) grant or vary, or accept any surrender, or cancellation or disposal of, any lease, tenancy, licence, consent or other right to occupy in relation to any of the Real Property or allow any person any right to use or occupy or to become entitled to assert any proprietary interest in, or right over, the Real Property, which may, in each case, adversely affect the value of any of the Material Real Property or the ability of the Security Trustee to exercise any of the Collateral Rights; or
- (d) assign or otherwise dispose of any interest in any Account and no right, title or interest in relation to any Account maintained with the Security Trustee, or the credit balance standing to any such Account shall be capable of assignment or other disposal.

11. By Clause 9.4 of the Debenture (*Assigned Accounts*):

- (a) the Company shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Assigned Account except with the prior consent of the Security Trustee or as permitted pursuant to the terms of the Facility Agreements and Clause 10 of the Debenture (*Monetary Claims*).
- (b) the Security Trustee shall, upon the occurrence of an event of default but only whilst it is continuing), be entitled without notice to exercise from time to time all rights, powers and remedies held by it as assignee of the Assigned Accounts and to:
  - (i) demand and receive all and any monies due under or arising out of each Assigned Account; and
  - (ii) exercise all such rights as the Company was then entitled to exercise in relation to such Assigned Account or might, but for the terms of the Debenture, exercise.

12. By Clause 10.1 of the Debenture (*Dealing with Monetary Claims*), the Company shall not at any time during the subsistence of the Debenture, without the prior written consent of the Security Trustee:

- (a) deal with the Monetary Claims except by getting in and realising them in a prudent manner (on behalf of the Security Trustee) and
  - (i) paying the proceeds of those Monetary Claims into the Accounts or a Specified Account or, where the same are to be applied forthwith for such purpose, to third parties entitled to any distribution as permitted by the Facility Agreements or to discharge cash payments obligations of other Group members to third parties, where such payments (and any loans or

repayments of indebtedness as between those Group members) are otherwise permitted under the Facility Agreements; or

- (ii) after an event of default has occurred but only whilst it is continuing, as the Security Trustee may require,

(and such proceeds shall be held upon trust by the Company for the Security Trustee on behalf of the Secured Parties prior to any such payment in or away); or

- (b) factor or discount any of the Monetary Claims or enter into any agreement for such factoring or discounting.

13. By Clause 20.1 of the Debenture (*Continuing Security*),

- (a) the Security created by or pursuant to the Debenture and any Mortgage shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Trustee.
- (b) no part of the security from time to time intended to be constituted by the Debenture will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

#### **PART IV**

##### **MATERIAL REAL PROPERTY**

None as of the date of the Debenture.

#### **PART V**

##### **SHARES**

None as of the date of the Debenture.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03577582

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 17th OCTOBER 2005 AND CREATED BY NCP SOUTH EAST & EAST ANGLIA LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ROYAL BANK OF CANADA EUROPE LIMITED (THE SECURITY TRUSTEE) 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 31st OCTOBER 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 2nd NOVEMBER 2005.

P.  
Daw 1



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES