

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

882706/13

CHFP025

Please do not  
write in  
this margin

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

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

[1][1][3]

03686765

Name of company

\*insert full name  
of Company

\* LLOYD & WHYTE LIMITED (the "Chargor")

Date of creation of the charge

21 APRIL 2009

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

A Debenture dated 21 April 2009 and made between (1) the Chargor and (2) the Lender (as defined below) (the "Debenture").

Amount secured by the mortgage or charge

All indebtedness, monies, obligations and liabilities (whether principal, interest, commission, charges, costs, expenses or otherwise) now or at any time hereafter due or owing or incurred to the Lender by the Chargor anywhere in any currency on any account or in any manner whatsoever (including the Debenture) including any liability in respect of any further advances made under the Finance Documents, whether present or future, actual or contingent (and whether due, owing or incurred solely, jointly or severally and whether as principal or as surety or in some other capacity) (the "Secured Obligations")

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

Groupama Insurance Company Limited of Groupama House, 24-26 Minories, London (the "Lender")

Postcode EC3N 1DE

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

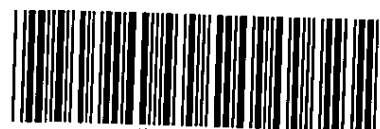
Beachcroft LLP  
100 Fetter Lane  
LONDON  
EC4A 1BN

PUM-GAN115-0554941

Time critical reference

For official Use (06/2005)  
Mortgage Section

THURSDAY



\*L76BG997\*

LD4

23/04/2009

30

COMPANIES HOUSE

01/95

See attached continuation sheets

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 *Beachcroft UP*

Date *22 April* 2009

On behalf of ~~XXXXXX~~ [mortgagee/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

**Company name: Lloyd & Whyte Limited**

**Registered No: 03686765**

Continuation Sheets 1 - 8

**Short particulars of all property mortgaged or charged**

**1. SECURITY**

**1.1 Fixed Security**

Under and pursuant to the Debenture, the Chargor, as security for the payment and discharge of all the Secured Obligations charged with full title guarantee in favour of the Lender:

1.1.1 by way of first legal mortgage the Chargor's rights, title and interest from time to time in and to, and the full benefit of, each of the following assets:

- (a) all the Properties; and
- (b) all freehold, leasehold or immovable property and all estates or interests therein (except any Charged Assets specified in paragraph (a) above) belonging to it; and
- (c) all buildings, fixtures, fittings, fixed plant or machinery for the time being and from time to time situated on or forming part of any of the Charged Assets specified in paragraphs (a) and (b) above;

1.1.2 by way of first fixed charge all the Chargor's rights, title and interest from time to time in and to, and the full benefit of, each of the following assets:

- (a) (to the extent they are not the subject of a mortgage described in paragraph 1.1.1 above), all freehold, leasehold or immovable property and all estates or interests therein belonging to it now or at any time hereafter;
- (b) all buildings, fixtures, fittings, fixed plant or machinery for the time being and from time to time situated on or forming part of such freehold or leasehold property;
- (c) all (if any) chattels now or hereafter owned by it and its interest in any chattels in its possession and any part or parts therefor;
- (d) all additions, alterations, accessories, replacement and renewals for the time being and from time to time to or of any of such chattels;
- (e) all Intellectual Property Rights;
- (f) all the stocks, shares, bonds, debentures, certificates of deposit, loan stocks, notes, warrants and other securities or investments, assets, rights or interests falling within Part II of Schedule 2 to the Financial Services and Markets Act 2000 (as in force at the date of the Debenture but so that any exemptions under any order made under Part III of that Schedule shall not apply) whether now or hereafter held directly by or to the order of the Chargor or by any trustee, fiduciary or clearance system on its behalf;
- (g) in respect of any of the Charged Assets described in paragraph (f) above or in this paragraph (g):

- (i) all dividends, interest and other distributions paid or payable;
  - (ii) all stocks, shares, bonds, debentures, certificates of deposit, loan stocks, notes, warrants and other securities and other assets, rights or interests now or hereafter accruing or offered by way of rights, bonus, option or otherwise;
  - (iii) all rights against any clearance system; and
  - (iv) all rights under any custodian or other agreement, but so that nothing in the Debenture shall be construed as imposing on the Lender any liability whatsoever in respect of any calls, instalments or other payments or contributions in respect of or relating to any of the Charged Assets in paragraph (f) above or in this paragraph (g);
- (h) the Accounts;
- (i) all benefits in respect of the Insurance Policies, including all proceeds owing or payable under them, and all claims and returns of premium in respect of them;
- (j) the Debts;
- (k) all its goodwill and its uncalled capital;
- (l) any beneficial interest, claim or entitlement of the Chargor in or to the assets of any pension fund;
- (m) the benefit of all agreements for the time being and from time to time entered into by it for the maintenance and/or improvement of any of the Charged Assets in any of the foregoing subparagraphs described in this paragraph 1.1.2 or in paragraph 1.1.1 above;
- (n) the benefit of all rights under any licence, agreement for sale or agreement for lease for the time being and from time to time in respect of any of the Charged Assets described in any of the foregoing subparagraphs in this paragraph 1.1.2 or in paragraph 1.1.1 above;
- (o) the benefit of all obligations and representations and warranties and undertakings for the time being and from time to time undertaken or given to it (and whether by law, contract or otherwise howsoever) by any person in relation to any of the Charged Assets described in any of the foregoing subparagraphs in this paragraph 1.1.2 or in paragraph 1.1.1 above;
- (p) the benefit of (severally) any contracts, deeds, undertakings, reports or other documents now or hereafter entered into by or given to it in respect of any of the Charged Assets described in any of the foregoing subparagraphs in this paragraph 1.1.2 or in paragraph 1.1.1 above and all documents now or hereafter in existence necessary to enable the Lender to perfect the same;
- (q) the benefit and proceeds for the time being and from time to time of any rights, claims, remedies, covenants for title, guarantees, indemnities or interests by way of security for the time being and from time to time given, granted or arising in favour of the Chargor in relation to or in respect of, any of the Charged Assets described in any of the foregoing subparagraphs in this paragraph 1.1.2 or in paragraph 1.1.1 above;
- (r) the benefit of all licences, consents and authorisations (statutory or otherwise) now or hereafter held in connection with its business or the use of any of the Charged Assets and all rights of the Chargor in connection with them; and

- (s) if not effectively assigned under clause 3.2 of the Debenture, all the Chargor's right, title and interest in and to (and claims under) the Assigned Agreements.

## **1.2 Assignments**

Under and pursuant to the Debenture the Chargor, as security for the payment and discharge of all of the Secured Obligations, assigned absolutely with full title guarantee to the Lender all the Chargor's right, title and interest from time to time in and to, and the full benefit of, each of the Assigned Agreements and all the proceeds of any payment of any claims, awards, judgments, sums or damages arising out of such Assigned Agreements payable to the Chargor thereunder and all the Chargor's rights or remedies now or hereafter in existence arising thereunder and any guarantees, warranties and/or other agreements collateral to the Assigned Agreements.

## **1.3 Floating Charge**

Under and pursuant to the Debenture:

- 1.3.1 the Chargor, as security for the payment and discharge of all of the Secured Obligations, charged with full title guarantee in favour of the Lender by way of first floating charge the whole of the Chargor's undertaking and assets, present and future, other than any assets validly and effectively mortgaged, charged or assigned (whether at law or in equity) by way of fixed security (under or pursuant to the Debenture or any other mortgage, charge, or assignment in favour of the Lender) under the laws of England and Wales, or of the jurisdiction in which that asset is situated, in favour of the Lender as security for the Secured Obligations;
- 1.3.2 paragraph 14 of Schedule B1 of the Insolvency Act 1986 shall apply to any floating charge created by this Debenture which shall be a "qualifying floating charge" for the purposes of Schedule B1 to the Insolvency Act 1986;
- 1.3.3 the Lender may by notice in writing to the Chargor convert the floating charge created by this Debenture into a fixed charge as regards all or any of the Chargor's assets specified in the notice if:
  - (a) an Enforcement Event has occurred; or
  - (b) the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- 1.3.4 if (a) the Chargor creates (or agrees or purports to create) any Security Interest on, over or in respect of any of the Floating Charge Assets without the prior consent in writing of the Lender or (b) a receiver is appointed over any of the Floating Charge Assets of a Chargor or (c) a third party levies, or attempts to levy, any distress, attachment, execution or other legal process against any of the Floating Charge Assets of the Chargor, then the floating charge created by the Debenture shall (in addition to the circumstances in which the same will occur under general law) automatically (without notice) be converted into and operate as a fixed charge over the relevant Floating Charge Assets of the Chargor immediately such event occurs;
- 1.3.5 the floating charge created by the Debenture in respect of the Chargor shall (in addition to the circumstances in which the same will occur under the general law) automatically (without notice) be converted into and operate as a fixed charge over all the Floating Charge Assets of the Chargor immediately where:
  - (a) the Lender receives notice of an intention to appoint an administrator of the Chargor; or

- (b) an application is made to appoint an administrator of the Chargor or for an administration order in respect of the Chargor; or
  - (c) an administration order is made or an administrator is appointed in respect of the Chargor;
- 1.3.6 nothing described in paragraphs 1.3.3, 1.3.4 or 1.3.5 shall affect crystallisation of the floating charge under the general law or under the other provisions of the Debenture.

#### **1.4 Negative Pledge**

1.4.1 Under and pursuant to the Debenture, save with the prior written consent of the Lender, the Chargor shall not and shall not agree or purport to:

- (a) create, give, grant or permit to arise or subsist any Security Interest over all or any part of the Charged Assets;
- (b) sell, discount, factor, transfer, grant, lease, lend or otherwise dispose of, part with or share possession of, whether by means of one or a number of transactions related or not and whether at one time or over a period of time, all or any of the Charged Assets, except for the disposal in the ordinary course of trade on arm's length terms of any of the Floating Charge Assets as expressly permitted under the Finance Documents;
- (c) sell, discount, factor, transfer, lend or otherwise dispose of, the right to receive or to be paid the proceeds arising on the disposal of all or any of the Charged Assets;
- (d) dispose of the equity of redemption in respect of all or any of the Charged Assets.

1.4.2 Paragraph 1.4.1 above does not apply to any Security Interest which is:

- (a) created with the prior written consent of the Lender (which may be given as well as before as after the date the Debenture, provided it shall expressly refer to the Debenture);
- (b) granted in favour of the Lender;
- (c) created prior to the date of the Debenture as follows:
  - (i) the debenture granted by the Chargor created on 20 March 2002 in favour of National Westminster Bank plc;
  - (ii) the debenture granted by the Chargor created on 22 December 2008 in favour of the Lender;
  - (iii) the cross guarantee entered into by the Chargor and its group companies for the benefit of National Westminster Bank plc in respect of all indebtedness owed to National Westminster Bank plc from the Chargor, Lloyd and Whyte (Financial Services) Limited and Lloyd & Whyte Group Limited.

## **2 RESTRICTIVE COVENANTS**

The Debenture contains the following restrictive covenants:

2.1 the Chargor shall not exercise any of its rights and powers in relation to any of the

Investments in any manner which, in the opinion of the Lender, would prejudice the value of, or the ability of the Lender to realise, the security created by or pursuant to the Debenture;

- 2.2 the Chargor shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account;
- 2.3 the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account which is a Security Account;
- 2.4 the Chargor shall not, without the Lender's prior consent, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account on or following the occurrence of an Enforcement Event;
- 2.5 the Chargor shall not at any time without the prior written consent of the Lender:
  - 2.5.1 deal with the Debts except by (as agent of the Lender) getting in and realising them in the ordinary and usual course of its business and paying the proceeds of those Debts into the Collections Account or as the Lender may from time to time require or direct and such proceeds shall be held upon trust by the Chargor for the Lender prior to such payment in; or
  - 2.5.2 sell, factor, discount or otherwise dispose of all or any of the Debts or enter into any agreement for such sale, factoring, discounting or other disposition or purport to do so or do anything else prohibited by clause 3.4 of the Debenture in respect of all or any of the Debts;
- 2.6 the Chargor shall not except as may be expressly permitted by the Finance Documents be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Debts standing to the credit of the Collections Account;
- 2.7 the Chargor shall not without the prior consent of the Lender:
  - 2.7.1 sell, transfer, license, or otherwise dispose of all or any part of its Intellectual Property Rights; or
  - 2.7.2 permit any Intellectual Property Right which is registered to be abandoned or cancelled, to lapse or to be liable to any claim of abandonment for non-use or otherwise;
- 2.8 the Chargor shall not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Charged Assets becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term;
- 2.9 the Chargor shall not at any time without the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed):
  - 2.10.1 effect, carry out or permit any demolition, reconstruction or rebuilding of or any structural alteration to or material change in the use of the Mortgaged Properties;
  - 2.10.2 sever, unfix or remove any of the fixtures (except for the purpose and in the course of effecting necessary repairs to the Mortgaged Properties or of replacing the same with new or improved models or substitutes) thereon belonging to or in use by the Chargor;
  - 2.10.3 enter into onerous or restrictive obligations affecting any part of the Mortgaged Properties or create or permit to arise any overriding interest or any easement or right whatsoever in or over the Mortgaged Properties which might adversely affect its value;
- 2.11 the Chargor shall not make any application for planning permission or implement any

planning permission obtained nor agree or agree to enter into any agreement under Section 106 of the Town and Country Planning Act 1990 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or Section 38 of the Highways Act 1980 or any other similar act or acts;

- 2.12 the Chargor shall not, unless otherwise agreed in writing by the Lender, take any of the Chattels out of England and Wales and shall not use or permit them to be used for any purpose for which they are not designed or reasonably suitable;
- 2.10 the Chargor shall not, unless otherwise agreed in writing by the Lender, waive, release or vary or agree to waive, release or vary any of the terms of any lease licence or agreement relating to the Charged Assets and shall not exercise any power to determine or extend any such lease, licence or agreement;
- 2.11 the Chargor shall not allow any circumstances to arise which could lead to a competent authority or a third party taking action not allow any circumstances to arise which could lead to a competent authority or a third party taking action or making a claim under any Environmental Laws, including the requirement to clean up any contaminated land, or the revocation, suspension, variation or non-renewal of any Environmental Permits, or the Chargor having to take action to avert the possibility of any such action or claim.

### **3. POWER OF ATTORNEY**

- 3.1 Under and pursuant to the Debenture, the Chargor irrevocably and by way of security appointed the Lender and any Receiver severally as the Chargor's attorney, in the Chargor's name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
  - 3.1.1 carrying out any obligation imposed on the Chargor by the Debenture (including the execution and delivery of any deeds, charges and assignments or other security and any transfers of the Charged Assets); and
  - 3.1.2 enabling the Lender and any Receiver to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Debenture or by law (including, after the occurrence of an Enforcement Event, the exercise of any right of a legal or beneficial owner of the Charged Assets).
- 3.2 Under and pursuant to the Debenture, the Chargor ratified and confirmed all things done by any attorney in the exercise or purported exercise of all or any of his rights, powers, authorities or discretions.
- 3.3 Each of the Lender and any Receiver shall have full power to delegate (either generally or specifically), with the power to sub-delegate, the powers, authorities and discretions conferred on it by the Debenture (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Lender or the Receiver itself or any subsequent delegation or revocation thereof.

### **4. DEFINITIONS**

In this Form 395:

**"Accounts"** means all present and future banking accounts (current, deposit or other) of the Chargor situate in any jurisdiction opened or maintained with any bank or financial institution, all monies from time to time standing to the credit thereof and the debts represented by them.

**"Charged Assets"** means all the property, assets and income of the Chargor which from time



to time are the subject of the security created or expressed to be created in favour of the Lender by or pursuant to the Debenture.

**"Chattels"** means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Chargor's stock in trade or work in progress).

**"Collections Account"** means the bank account (if any) for the time being and from time to time specified or designated as such by the Lender for the purposes of Clause 10.1.1 of the Debenture and if no such account is so specified, the current account of the Chargor with its bankers.

**"Debts"** means any book and other debts and other monies now or hereafter due or owing or to become due or owing to the Chargor on any account whatsoever and whether actual or contingent and including cash at bank and any proceeds thereof and whether or not the same would or shall be entered into the books of the Chargor, and includes any monies or proceeds for the time being and from time to time payable to or receivable or received by the Chargor in respect of any of the Charged Assets or in respect of a disposal, collection or other realisation of any of the Charged Assets or claims or monies deriving from or in relation to any court order or judgment, any contract or agreement to which the Chargor is a party, and compensation under the provisions of any legislation or otherwise.

**"Debts"** means any book and other debts and other monies now or hereafter due or owing or to become due or owing to the Chargor on any account whatsoever and whether actual or contingent and including cash at bank and any proceeds thereof and whether or not the same would or shall be entered into the books of the Chargor, and includes any monies or proceeds for the time being and from time to time payable to or receivable or received by the Chargor in respect of any of the Charged Assets or in respect of a disposal, collection or other realisation of any of the Charged Assets or claims or monies deriving from or in relation to any court order or judgment, any contract or agreement to which it is a party, and compensation under the provisions of any legislation or otherwise.

**"Enforcement Event"** means the occurrence of an Event of Default or the Secured Obligations having become immediately payable under any Finance Document or the making of a demand for payment of the Secured Obligations pursuant to Clause 2 of the Debenture.

**"Environment"** means:

- (a) land including any natural or man-made structures;
- (b) water including ground waters and waters in drains and sewers; and
- (c) air, including air within buildings and other natural or man-made structures above or below ground.

**"Environmental Laws"** means all and any applicable laws, including common law, statute and subordinate legislation, European Community Regulations and Directives and judgments and decisions, including notices, orders or circulars, of any court or authority competent to make such judgment or decision compliance with which is mandatory for the Chargor in any jurisdiction with regard to:

- (a) the pollution or protection of the Environment;
- (b) harm to the health of humans, animals or plants including without limitation laws relating to public and workers' health and safety;
- (c) emissions, discharges or releases into, or the presence in, the Environment of chemicals or any other pollutants or contaminants, or industrial, radioactive, dangerous, toxic or hazardous substances, or wastes (whether in solid, semi-solid,

liquid or gaseous form and including noise and genetically modified organisms); or

- (d) the manufacture, processing, use, treatment, storage, distribution, disposal, transport or handling of the substances or wastes described in (c) above.

**"Environmental Permits"** means all or any permits, licences, consents, approvals, certificates, qualifications, specifications, registrations and other authorisations including any conditions which attach to any of the above, and the filing of all notifications, reports and assessments required under Environmental Laws for the operation of any business from or using any of the Charged Assets or the occupation or use of all or any of the Properties.

**"Event of Default"** means an event of default (howsoever described) under the Facility Agreement.

**"Facility Agreement"** means the agreement between the Lender and the Chargor as evidenced by the Chargor's acceptance of the Lender's offer of an advance of £380,000 (three hundred and eighty thousand pounds sterling) contained in a letter dated 15 April 2009 from the Lender to the Chargor.

**"Finance Documents"** means the Facility Agreement and the Debenture.

**"Floating Charge Assets"** means all of the Charged Assets described in paragraph 1.3.1 above.

**"Insurance Policy"** means any contract or policy of insurance (including a cover note) in which the Chargor may from time to time have an interest including the Chargor's interest in any insurances taken out by any other person in the joint names of itself and the Chargor.

**"Intellectual Property Rights"** means all existing and future know-how, patents, trade marks, service marks, designs, business names, topographical or similar rights, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests (including by way of licence), whether registered or unregistered and the benefit of all applications and rights to use such assets.

**"Investments"** means all the Charged Assets described in paragraph 1.1.2 (f) and (g) above.

**"Mortgaged Properties"** means all the Charged Assets described in paragraphs 1.1.1, 1.1.2 (a) and 1.1.2 (b) above.

**"Security Interest"** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security.



## **CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE**

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

**COMPANY NO. 3686765  
CHARGE NO. 3**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEBENTURE DATED 21 APRIL 2009  
AND CREATED BY LLOYD & WHYTE LIMITED FOR SECURING  
ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY  
TO GROUPAMA INSURANCE COMPANY LIMITED 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 23 APRIL 2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 28 APRIL 2009

*Handwritten signature*



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES