

# M

## COMPANIES FORM No. 395

021927/13

### 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

8

03759332

Name of company

\* George (Mount Street) Limited (the "Company")

Date of creation of the charge

4 March 2008

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

Debenture (the "Debenture")

Amount secured by the mortgage or charge

4 All or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to BoS by the Company, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not BoS shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which BoS may in the course of its business charge or incur in respect of any of those matters or for keeping the Company's account, and so that interest shall be computed and compounded according to the usual BoS rates and practice as well after as before any demand made or judgment obtained under or in relation to the Debenture (the "Secured Liabilities").

For a list of definitions see Continuation sheet.

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

Bank of Scotland plc (formerly known as The Governor and Company of the Bank of Scotland) (Company Number SC327000) having its registered office at The Mound, Edinburgh ("BoS")

Postcode EH1 1YZ

Presentor's name address and reference (if any)

Maclay Murray & Spens LLP  
One London Wall  
London  
EC2Y 5AB

FZF/BAN/0013/03136

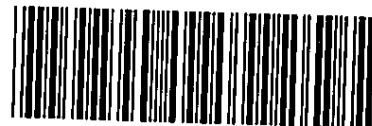
Time critical reference

For official Use (06/2005)

Mortgage Section

Post room

FRIDAY



A20

\*AP5DSXTZ\*  
07/03/2008  
COMPANIES HOUSE

70

Short particulars of all the property mortgaged or charged

Please see Continuation sheet.

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

FOR AND ON BEHALF OF  
**MACLAY MURRAY & SPENS LLP**

Date

5/3/08

On behalf of ~~1000000~~ [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**

## **Continuation sheet**

To the Registrar of Companies

Name of company

George (Mount Street) Limited (the  
"Company")

Company number

03759332

95

### **Short particulars of all the property mortgaged or charged:**

#### **1. Charging provisions**

1 1 The Company with full title guarantee charges to BoS as a continuing security for the payment or discharge of the Secured Liabilities -

1 1 1 by way of legal mortgage all estates or interests in the freehold and leasehold property described in the Schedule to the Debenture together with all present and future buildings, fixtures (including trade and tenant's fixtures), plant and machinery which are at any time on any such property,

1 1 2 by way of fixed charge -

2 1 2 1 all estates or interests in any freehold or leasehold property belonging to the Company now or at any time after the date of the Debenture (other than any property charged in terms of Clause 2 1 1 of the Debenture) together with all buildings, fixtures (including trade and tenant's fixtures), plant and machinery which are at any time on the property,

2 1 2 2 all present and future interests of the Company in or over land or the proceeds of sale of it and all present and future licences of the Company to enter upon or use land and the benefit of all other agreements relating to land to which it is or may become party or otherwise entitled and all fixtures (including trade and tenant's fixtures) which are at any time on the property charged under the Debenture;

2 1 2 3 all present and future plant, machinery, vehicles, computers and office and other equipment owned by the Company,

2 1 2 4 all present and future stocks, shares and other securities owned (at law or in equity) by the Company and all rights and interests accruing or offered at any time in relation to them,

2.1 2 5 all rights and interests in and claims under all policies of insurance and assurance held or to be held by or insuring to the benefit of the Company and the benefit of all rights and claims to which the Company is now or may be entitled under any contracts other than in relation to policies of insurance and assurance held by the Company for the benefit of third parties,

2 1.2 6 all patents, patent applications, trade marks, trade mark applications, trading names, brand names, service marks, copyrights, rights in the nature of copyright, moral rights, inventions, design rights, registered designs, all trade secrets and know-how, computer rights, programmes, systems, tapes, disks, software, all applications for registration of any of them and other intellectual property rights held or to be held by the Company or in which it may have an interest and the benefit of all present and future agreements relating to the use of or licensing or exploitation of any such rights (owned by the Company or others) and all present and future fees, royalties or similar income derived

- from or incidental to any of the foregoing in any part of the world,
- 2.1 2.7 all the Company's goodwill and uncalled capital for the time being,
- 2.1 2.8 all present and future book and other debts and monetary claims of the Company whether payable now or in the future and the benefit of all present and future rights and claims of the Company against third parties relating to them and capable of being satisfied by the payment of money (save as charged under Clause 2.1 2.5 of the Debenture);
- 2.1 2.9 all present and future bank accounts, cash at bank and credit balances of the Company with any bank or other person whatsoever and all rights relating or attaching to them (including the right to interest), and
- 2.1 3 by way of floating charge all the Assets not effectively otherwise mortgaged, charged or assigned by Clause 2 of the Debenture, (including, without limitation, any immovable property of the Company in Scotland and any Assets in Scotland falling within any of the types mentioned in Clause 2.1 2 of the Debenture)
- 2.2 The Company with full title guarantee hereby assigns as a continuing security for the payment or discharge of the Secured Liabilities in favour of BoS (subject to the right of the Company to require the re-assignment thereof upon payment or discharge in full of the Secured Liabilities):
- 2.2 1 all the right, title and interest of the Company in and to the Acquisition Agreement,
- 2.2.2 all the right, title and interest of the Company in and to any interest rate hedging agreements entered into by any person
- 2.3 To the extent that any such right, title and interest as is referred to in Clause 2.2 of the Debenture is not assignable or capable of assignment, the assignment thereof purported to be effected by such Clause shall operate as an assignment of any and all compensation, damages, income, profit or rent which the Company may derive therefrom or be awarded or entitled to in respect thereof, in each case as a continuing security for the payment or discharge in full of the Secured Liabilities
- 2.4 Any mortgage, fixed charge or other fixed security created by the Company in favour of BoS shall have priority over the floating charge created by the Debenture, except insofar as BoS shall declare otherwise whether at or after the time of creation of such fixed security
- 2.5 BoS may at any time following an Event of Default which is continuing unremedied and unwaived or if in the opinion of BoS any Assets are in jeopardy, by notice to the Company, immediately convert the floating charge created under Clause 2.1.3 of the Debenture into a fixed charge over any Assets specified in that notice and the floating charge will, without notice from BoS, automatically be converted with immediate effect into a fixed charge -
- 2.5 1 in respect of any Assets which become subject to a fixed charge in favour of any other person,
- 2.5 2 in respect of any Assets which are subject to any step by any third party to levy any distress, attachment, execution or other legal process thereon;
- 2.5.3 in respect of all the Assets charged under Clause 2.1 3 of the Debenture if and when the Company ceases to carry on business or to be a going concern, and
- 2.5 4 in respect of all the Assets on the making of an order for the compulsory winding-up of the Company, on the convening of a meeting for the passing of a resolution for the voluntary winding-up of the Company or the taking of any steps (including, without limitation, the making of an application or the giving of any notice) by the Company or any other person for the appointment of an administrator in respect of the Company
- 2.6 Clause 2.5 of the Debenture will not apply -
- 2.6 1 to any Assets situated in Scotland if, and to the extent that, a Receiver would not be capable of

exercising his powers in Scotland pursuant to Section 72 of the Insolvency Act 1986 by reason of such automatic conversion, and/or

2 6 2 solely by reason of the Company obtaining a moratorium or anything done with a view to obtaining a moratorium under Schedule A1 of the Insolvency Act 1986 (as amended by the Insolvency Act 2000)

2 7 Other than as is permitted under the terms of the Facility Letter, the Company will not without the prior written consent of **BoS** -

2.7 1 create or attempt to create or permit to subsist any right in security, mortgage, charge, lien or encumbrance on all or any of its Assets (other than a lien arising in the ordinary course of business by operation of law), or

2 7 2 sell, transfer, assign, factor, lease or otherwise dispose of or part with possession in any way of all or any of its Assets (other than in terms of a Permitted Disposal), or

2 7.3 in any way dispose of the equity of redemption of any such Asset or any interest in any such Asset

2 8 The Company applies to the Chief Land Registrar for a restriction to be entered on the Register of Title of all present and future registered freehold and leasehold property of the Company in the following terms

“No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of **BoS** referred to in the Charges Register or, if appropriate, signed on behalf of such proprietor by its authorised signatory”

2 9 The obligation on the part of **BoS** to make further advances to the Company is deemed to be incorporated in the Debenture and the Company applies to the Chief Land Registrar for a note of such obligation to be entered on the Register of Title of all present and future registered freehold and leasehold property of the Company

2 10 The Company will, immediately upon execution of the Debenture, deliver to **BoS** (or as it shall direct) all certificates and other documents of title to the stocks, shares and other securities referred to in Clause 2.1 2 4 of the Debenture together with stamped stock transfer forms in respect of the same executed in blank (except for the number and class of shares and the name of the transferor) and left undated **BoS** may at any time after the date of the Debenture complete the instruments of transfer on behalf of the Company in favour of itself or such other person as it shall select

2 11 The Company (at its own cost) will on demand in writing by **BoS** execute and deliver in such form as **BoS** may reasonably require -

2 11 1 a legal mortgage of any freehold or leasehold property of the Company which is not effectively charged by Clause 2 1 1 of the Debenture and of any freehold or leasehold property acquired by the Company after the date of the Debenture,

2 11 2 a standard security or other fixed security over the Company's heritable freehold, leasehold or other property,

2 11.3 a fixed charge or assignment in or by way of security of any Asset subject to a floating charge under Clause 2 1 3 of the Debenture,

2 11.4 a chattel mortgage over such chattels, plant and machinery as **BoS** may specify, and

2 11 5 a notice of any assignment of its right, title and interest in and to any of the agreements referred to in Clause 2 2 of the Debenture,

and the Company will execute such other deeds, documents, agreements and instruments and will otherwise do and concur in all such other acts or things as **BoS** may deem necessary for perfecting,

preserving or protecting the security created (or intended to be created) by the Debenture or for facilitating the realisation of the Assets or the exercise of any rights of **BoS** under the Debenture

**2 12 The Company shall**

2 12 1 get in and realise the Company's book and other debts and other monies, in the ordinary course of its business and hold the proceeds of the getting in and realisation (until payment into an account in accordance with Clause 2 12 2 of the Debenture) upon trust for **BoS**,

2 12 2 pay into its account with **BoS** (or as **BoS** may direct) all monies which it receives in respect of any book or other debts and other monies charged to **BoS**, and

2 12 3 if called upon to do so by **BoS** execute a legal assignment of all or any of such book or other debts to **BoS**

2 13 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by or pursuant to the Debenture.

**2. Continuing Security**

This security will be a continuing security for the Secured Liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities or other matter or thing whatsoever and will be without prejudice and in addition to any other right, remedy or security of whatever sort which **BoS** may hold at any time for the Secured Liabilities or any other obligation whatsoever and will not be affected by any release, reassignment or discharge of such other right remedy or security

**3. Undertakings**

Save to the extent that the provisions of Clause 4 of the Debenture are inconsistent with or conflict with the terms of any facility letter entered into between (inter alia) the Company and **BoS** from time to time, the Company will, unless the Company obtains **BoS'** consent not to -

4 1 at all times comply with the terms of the Debenture and of all agreements relating to the Secured Liabilities,

4 2 keep the Assets in good and substantial repair and in good working order and condition, ordinary wear and tear excepted where failure to do so would or would be reasonably likely to have a Material Adverse Effect,

4 3 preserve and maintain all intellectual property rights owned or used by the Company (including, without limitation, those referred to in Clause 2 1 2 6 of the Debenture) where failure to do so would or would be reasonably likely to have a Material Adverse Effect,

4 4 comply in all material respects with the terms of all applicable laws and regulations including (without limitation) all environmental laws, legislation relating to public health, town & country planning, control and handling of hazardous substances or waste, fire precautions and health and safety at work where failure to do so would or would be reasonably likely to have a Material Adverse Effect,

4.5 promptly notify **BoS** of the acquisition by the Company of any estate or interest in any freehold, heritable or leasehold property,

4 6 ensure that all of the Assets that are insurable are insured with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in businesses similar to those of the Company (or as otherwise requested in writing by **BoS** from time to time) and (without limitation to the generality of the foregoing)-

4 6 1 pay all premiums and other monies due and payable under all such insurances and provide premium receipts or any other evidence of payment promptly upon request to do so by **BoS**,

4 6 2 ensure that the interest of **BoS** is noted on the policies in respect of such insurances or, at the request of **BoS**, that such policies contain such other provisions for the protection of **BoS** as

**BoS** may from time to time require,

- 4 7 promptly upon request by **BoS** deposit with **BoS** all deeds, certificates and documents of title relating to the Assets or any part thereof charged by the Debenture and all policies of insurance and assurance,
- 4 8 promptly pay or cause to be paid and indemnify **BoS** and any Receiver against all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever now or at any time in the future payable in respect of any of its Properties (or any part thereof) or by the owner or occupier thereof,
- 4 9 not make any structural or material alteration to or to the user of any of its Properties or do or permit to be done anything which is a "development" within the meaning of the Town and Country Planning Acts from time to time (or any orders or regulations under such Acts) or do or permit to be done any act, matter or thing where to do so would have a material and adverse effect on the value of any of its Properties or on the marketability of any of such Properties,
- 4 10 not grant any lease of, part with possession or share occupation of, the whole or any part of any of its Properties or confer any licence, right or interest to occupy or grant any licence or permission to assign, under-let or part with possession of the same in any way which is likely to have a material and adverse effect upon the value of any of such Properties,
- 4 11 not vary, surrender, cancel or dispose of, or permit to be forfeit, any leasehold interest in any of its Properties,
- 4 12 observe and perform all covenants, agreements and stipulations from time to time affecting its interest in any of its Properties or contained in any lease, agreement for lease or tenancy agreement under which any part of such Properties may be held,
- 4 13 notify **BoS** immediately in the event of any creditor executing diligence against the Company or any distress or execution is levied or enforced against the Company or any third party debt order or freezing order is made and served on the Company,
- 4 14 notify **BoS** immediately if any steps (including, without limitation, the making of any application or the giving of any notice) are taken by any person (including, without limitation, the Company) in relation to the administration, receivership, winding-up or dissolution of the Company,
- 4 15 not allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of any of its Properties (or any part thereof) or create or permit to arise any overriding interest (as specified in Schedule 1 or Schedule 3 to the Land Registration Act 2002) affecting any such property;
- 4 16 not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of its Assets; and
- 4 17 maintain its centre of main interests (COMI) for the purposes of the EU Regulation on Insolvency Proceedings 2000 (NO 1346/2000), in the United Kingdom

**5. Set-off**

- 13 1 The Company agrees that any monies from time to time standing to its credit on any account (whether current, deposit, loan or of any other nature whatsoever) with **BoS** may be retained as cover for and/or applied by **BoS** at any time and with subsequent written notice to the Company (whether on or before or after the expiry of any fixed or minimum period for which such monies may have been deposited) in or towards payment or satisfaction of any monies or liabilities due, owing or incurred by the Company to **BoS** in any manner, whether present or future, actual or contingent, joint or several, whether incurred as principal or surety (or guarantor or cautioner) or in any other way whatsoever.
- 13 2 If **BoS** exercises any rights in respect of any monies as referred to in Clause 13 1 of the Debenture (including, without limitation, any rights of set-off, accounting or retention or similar rights) in relation to any liability of the Company and that liability or any part of it is in a different currency from any

credit balance against which **BoS** seeks to exercise its rights, **BoS** may use the currency of the credit balance to purchase an amount in the currency of the liability at the then prevailing **BoS** spot rate of exchange and to pay out of the credit balance all costs, charges and expenses incurred by **BoS** in connection with that purchase

- 13.3 **BoS** shall not be liable for any loss of interest caused by the determination before maturity of any deposits or any loss caused by the fluctuation in any exchange rate at which any currency may be bought or sold by **BoS** save in the case of gross negligence or wilful default by **BoS**.

### **Definitions**

In the interpretation of this Form 395 -

**"Acquisition Agreement"** means the agreement dated on or about the date hereof between, among others, CH Acquisition Limited, Marcus Oswald Hornby Lecky Birley in relation to the acquisition of Mark Birley Holdings Limited (company number 03526080),

**"Assets"** means the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Company,

**"BoS"** means Bank of Scotland plc (formerly known as The Governor and Company of the Bank of Scotland) (Company Number SC327000) having its registered office at The Mound, Edinburgh EH1 1YZ and its successors, assignees and transferees,

**"Event of Default"** has the meaning given to such term in the Facility Letter,

**"Facility Letter"** means the facility letter dated on or around the date of the Debenture from **BoS** to, among others, the Company in relation to term loan and overdraft facilities (as such letter is amended, varied, supplemented, novated, restated or replaced from time to time),

**"Material Adverse Effect"** has the meaning given to such term in the Facility Letter;

**"Permitted Disposal"** has the meaning given to such term in the Facility Letter,

**"Properties"** means at any time the freehold, heritable and leasehold properties of the Company at that time or any of them as the context requires,

**"Receiver"** means an administrative receiver, receiver and manager or other receiver appointed pursuant to the Debenture in respect of the Company or over all or any of the Assets charged by the Debenture





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

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

**COMPANY NO. 3759332  
CHARGE NO. 8**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEBENTURE DATED 4 MARCH  
2008 AND CREATED BY GEORGE (MOUNT STREET) LIMITED  
FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM  
THE COMPANY TO BANK OF SCOTLAND PLC ON ANY  
ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO  
CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 7  
MARCH 2008

GIVEN AT COMPANIES HOUSE, CARDIFF THE 14 MARCH 2008

PO  
JEL



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES