

MG01

Particulars of a mortgage or charge

701842/13



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LASERFORM

A fee is payable with this form.

We will not accept this form unless you send the correct fee.

Please see 'How to pay' on the last page.



**What this form is for**

You may use this form to register particulars of a mortgage or charge in England and Wales or Northern Ireland.



**What this form is NOT for**

You cannot use this form to register particulars of a charge for a company. To do this, please use form MG01s.

WEDNESDAY



LD3

\*LWT2QF9Q\*

25/11/2009

80

COMPANIES HOUSE

1

**Company details**

Company number 03918901

Company name in full BAIN CAPITAL, LTD. (the "Chargor")

For official use

→ **Filling in this form**

Please complete in typescript or in bold black capitals.

All fields are mandatory unless specified or indicated by \*

2

**Date of creation of charge**

Date of creation 05/11/2009

3

**Description**

Please give a description of the instrument (if any) creating or evidencing the charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'.

Description A deed of assignment and charge (the "Deed of Assignment and Charge") dated 5 November 2009 made between the Chargor, Portfolio Company Advisors, Ltd., Bank of America, N.A. and Brown Brothers Harriman & Co.

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**Amount secured**

Please give us details of the amount secured by the mortgage or charge.

Amount secured

All present and future obligations and other liabilities of any nature of each Loan Party due, owing or incurred under or in connection with the Loan Documents (or any of them), including any Obligations, to the Lenders (including under any amendments, supplements or restatements of any of the Loan Documents or in relation to any new or increased advances or utilisations thereunder) and whether indebtedness or liabilities originally owed to all or any of the Secured Parties or any other person or persons actual or contingent, matured or not matured, liquidated or unliquidated, whether incurred solely or jointly and/or severally or in any other capacity whatsoever and whether as principal or surety, in any currency, including all interest accruing thereon (calculated in accordance with Clause 1.7 (Interest) of the Deed of Assignment and Charge) after as well as before judgment, and all costs, charges and expenses (to the extent payable by the relevant Loan Party pursuant to the terms of the Loan Documents) incurred in connection therewith.

Please refer to the continuation pages for all defined terms used in this MG01.

**Continuation page**

Please use a continuation page if you need to enter more details.

# MG01

## Particulars of a mortgage or charge

### 5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge.

**Continuation page**  
Please use a continuation page if you need to enter more details.

Name	Bank of America, N.A.
Address	100 Federal Street, Boston, Massachusetts
	USA
Postcode	0 2 1 1 0
Name	Brown Brothers Harriman & Co.,
Address	50 Milk Street, Boston, Massachusetts,
	USA
Postcode	0 2 1 0 9

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged.

**Continuation page**  
Please use a continuation page if you need to enter more details.

Short particulars

#### 1. FIXED CHARGES AND ASSIGNMENTS

##### 1.1 Fixed Charges

The Chargor, with full title guarantee and as continuing security for the payment of the Secured Obligations, has charged, in favour of the Lenders by way of first fixed charge all of its Book Debts, to the extent that they are not effectively assigned pursuant to Clause 2.2 (*Assignments*) of the Deed of Assignment and Charge.

##### 1.2 Assignments

The Chargor, with full title guarantee and as continuing security for the payment of the Secured Obligations, has assigned absolutely (subject to the reassignment on redemption pursuant to Clause 15.7 (*Redemption*) of the Deed of Assignment and Charge) to the Lenders all rights, title and interest in its Book Debts.

#### 2. FLOATING CHARGE

##### 2.1 Creation of Floating Charge

The Chargor, with full title guarantee, as continuing security for the payment of the Secured Obligations has charged in favour of the Lenders by way of floating charge the Charged Assets, present and future, other than any property or assets from time to time or for the time being effectively mortgaged, charged or assigned to the Lenders under Clause 2 (*Fixed Charges and Assignment*) of the Deed of Assignment and Charge.

##### 2.2 Qualifying Floating Charge

(a) The floating charge created by the Chargor pursuant to Clause 3.1 (*Creation of Floating Charge*) of the Deed of Assignment and Charge is a "qualifying floating charge" for the purposes of paragraph 14.2(a) of Schedule B1 to the Insolvency Act 1986.

(b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the Deed of Assignment and Charge and the Lenders may appoint an Administrator to the relevant Chargor pursuant to that paragraph.

Please refer to continuation page.

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## Particulars of a mortgage or charge

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### Amount secured

Please give us details of the amount secured by the mortgage or charge.

Amount secured

#### Definitions

All capitalised terms shall have the meaning given to them in this section.

"Administrator" means an administrator appointed under Schedule B1 to the Insolvency Act 1986.

"Book Debts" means, in relation to any Chargor, all its rights, title and interest in all advisory, subadvisory or management fees payable directly or indirectly to any Chargor by a Fund, and all proceeds, accounts, or general intangibles consisting of the right to receive the payment of money arising therefrom or in connection therewith, whether now existing or hereafter arising.

"Borrower" means Bain Capital, LLC, a Delaware limited liability company having its principal place of business at 111 Huntington Avenue, Boston, Massachusetts 02199.

"Companies Act" means the Companies Act 1985 and the Companies Act 2006.

"Charge" means any Security created by the Deed of Assignment and Charge.

"Charged Asset" means the property, assets and income mortgaged, assigned or charged to the Lenders (whether by way of legal mortgage, assignment, fixed or floating charge) by or pursuant to the Deed of Assignment and Charge and each and every part of such property, assets and income.

"Chargors" means Bain Capital, Ltd., a company incorporated in England & Wales with registered number 03918901 and whose registered office is at Devonshire House, Mayfair Place, London W1J 8AJ, and Portfolio Company Advisors, Ltd., a company incorporated in England & Wales with registered number 05516515 and whose registered office is at Devonshire House, Mayfair Place, London W1J 8AJ, and "Chargor" means any one of them individually.

"Closing Date" means the first date on which the conditions set forth in Section 7 (Closing Conditions) of the Credit Agreement have been satisfied and any Loan is to be made thereunder.

"Credit Agreement" means the Third Amended and Restated Credit Agreement (as amended, restated, amended and restated, supplemented, modified and otherwise in effect from time to time) dated as of August 11, 2006, by and among the Borrower and the Lenders, whereby the Lenders have agreed to make available certain facilities on the terms and conditions contained therein.

"Default Rate" means the rate of interest per annum as described in Section 5.7 (Interest After Default) of the Credit Agreement.

"Delegate" means a delegate or sub-delegate appointed, directly or indirectly, pursuant to Clause 9.3 (Delegation) of the Deed of Assignment and Charge.

Please refer to the continuation page.

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## Particulars of a mortgage or charge

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### Amount secured

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#### Amount secured

**"Funds"** means collectively (1) Bain Capital Fund VI, L.P.; (2) Bain Capital VI Coinvestment Fund, L.P.; (3) Bain Capital Fund VII, L.P.; (4) Bain Capital VII Coinvestment Fund, L.P.; (5) Bain Capital Pacific Fund I, L.P.; (6) Bain Capital Venture Fund 2001, L.P.; (7) Brookside Capital Partners Fund, L.P.; (8) Sankaty High Yield Asset Partners, L.P.; (9) Sankaty High Yield Partners II, L.P.; (10) Sankaty High Yield Partners III, L.P.; (11) Bain Capital Fund VII-E, L.P.; (12) Sankaty Credit Opportunities, L.P.; (13) Bain Capital Fund VIII, L.P.; (14) Bain Capital VIII Coinvestment Fund, L.P.; (15) Bain Capital Fund IX, L.P.; (16) Bain Capital IX Coinvestment Fund, L.P.; (17) Bain Capital Fund VIII-E, L.P.; (18) Prospect Harbor Credit Partners, L.P.; (19) Absolute Return Capital Partners, L.P.; (20) Bain Capital Venture Fund 2005, L.P.; (21) Sankaty Credit Opportunities II, L.P.; (22) Brant Point CBO 1999-1 Ltd.; (23) Boston Light Structured Enhanced Return Vehicle Trust I; (24) Race Point CLO, Limited; (25) Race Point II CLO, Limited; (26) Race Point III CLO, Limited; (27) Nash Point CLO, Limited; (28) Castle Hill I - Ingots, Ltd.; (29) Castle Hill II - Ingots, Ltd.; (30) Castle Hill III CLO, Limited; (31) Portland Head, LLC; (32) Avery Point CLO, Limited; (33) Chatham Light CLO, Limited; (34) Chatham Light II CLO, Limited; (35) Katonah III, Ltd; (36) Katonah IV, Ltd.; and all other investment vehicles or investment entities (i) for whom the Borrower or any Guarantor as at 11 August 2006 or at any time thereafter provided or provides, as applicable, (directly or indirectly) advisory, subadvisory or management services, or (ii) as at 11 August 2006 or at any time thereafter provided or provides, as applicable, obligated to pay (directly or indirectly) advisory, subadvisory or management fees to the Borrower or any Guarantor.

**"Guaranty(ies)"** means the Amended and Restated Guaranty or Third Amended and Restated Guaranty, dated or to be dated on or prior to the Closing Date, or the Guaranty or Guaranties entered into after the Closing Date, as applicable, made by each Guarantor in favor of the Lenders pursuant to which each Guarantor guaranties to the Lenders the payment and performance of the Obligations and in form and substance satisfactory to the Lenders and the Borrower.

**"Guarantors"** means each of (1) Bain Capital Partners, LLC, a Delaware limited liability company; (2) Sankaty Advisors, LLC, a Delaware limited liability company; (3) Brookside Capital, LLC, a Delaware limited liability company; (4) Bain Capital Venture Partners, LLC, a Delaware limited liability company; (5) Absolute Return Capital, LLC, a Delaware limited liability company; and (6) the UK Guarantors and **"Guarantor"** shall mean any one of them.

**"Issuing Bank"** means a Lender which issues a Letter of Credit in accordance with the terms of Section 3.1(a) of the Credit Agreement.

**"Lenders"** means Bank of America, N.A. a national banking institution organized and existing by and under the laws of the United States of America and Brown Brothers Harriman & Co., a New York limited partnership and **"Lender"** shall mean any one of them.

**"Letter of Credit"** means standby letters of credit in such form as may be requested by the Borrower and agreed to by the Issuing Bank in accordance with Section 3.1(a) of the Credit Agreement.

**"Letter of Credit Application"** means an application by the Borrower of a letter of credit on the relevant Lender's customary form.

**"Loan"** means any loan(s) made or to be made to the Borrower pursuant to Section 2.1 of the Credit Agreement.

**"Loan Documents"** means the Credit Agreement, the Notes, the Letters of Credit, the Letter of Credit Applications, the Guaranties and the Security Documents, in each case as from time to time amended or supplemented.

**"Loan Party"** means the Borrower or a Guarantor.

**"Notes"** means two amended and restated promissory notes which evidence the obligation of the Borrower to repay to the Lenders the principal of the Loans and interest accrued thereon in favour of the Lenders respectively, executed and delivered by the Borrower, in form and substance satisfactory to the Lenders and the Borrower.

Please refer to the continuation page.

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## Particulars of a mortgage or charge

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### Amount secured

Please give us details of the amount secured by the mortgage or charge.

Amount secured

**"Obligations"** means all indebtedness, obligations and liabilities of the Borrower to any or all of the Lenders, existing on 11 August 2006 or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, but only to the extent arising or incurred under the Credit Agreement or any other Loan Document or in respect of any of the Loans, the Notes or the Letters of Credit or other instruments at any time evidencing any thereof.

**"Receiver"** means an administrative receiver or a receiver appointed pursuant to the provisions of the Deed of Assignment and Charge or pursuant to any applicable law and such expression shall include, without limitation, a receiver and manager.

**"Secured Obligations"** means all present and future obligations and other liabilities of any nature of each Loan Party due, owing or incurred under or in connection with the Loan Documents (or any of them), including any Obligations, to the Lenders (including under any amendments, supplements or restatements of any of the Loan Documents or in relation to any new or increased advances or utilisations thereunder) and whether indebtedness or liabilities originally owed to all or any of the Secured Parties or any other person or persons actual or contingent, matured or not matured, liquidated or unliquidated, whether incurred solely or jointly and/or severally or in any other capacity whatsoever and whether as principal or surety, in any currency, including all interest accruing thereon (calculated in accordance with Clause 1.7 (*Interest*) of the Deed of Amendment and Charge), after as well as before judgment, and all costs, charges and expenses (to the extent payable by the relevant Loan Party pursuant to the terms of the Loan Documents) incurred in connection therewith.

**"Secured Parties"** means each Lender from time to time party to the Credit Agreement, and any Receiver, Administrator or Delegate and **"Secured Party"** shall mean any one of them.

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

**"Security Agreement"** means a certain Third Amended and Restated Security Agreement, dated as of August 11, 2006 (as amended and in effect from time to time) between the Borrower, certain of the Guarantors and the Lenders.

**"Security Documents"** means the Security Agreement, the UK Security Agreement and all other instruments and documents, including without limitation Uniform Commercial Code financing statements, required to be executed or delivered pursuant to any Security Document.

**"UK Guarantors"** means each of (1) Bain Capital, Ltd., and (2) Portfolio Company Advisors, Ltd.

**"UK Security Agreement"** means the Deed of Assignment and Charge.

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## Particulars of a mortgage or charge

### 6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged.

Short particulars

3. **FURTHER ASSURANCE AND ADDITIONAL OBLIGATIONS**
  - 3.1 **Further Assurance**

The Chargor has agreed that it shall, at the request of the Lenders and at the cost of the Chargor, forthwith do all acts and things and execute in favour of the Lenders, or as any Lender may direct, such further or other legal assignments, transfers, mortgages, charges, securities and other deeds and documents as the Lenders may reasonably require, in such form as the Lenders may reasonably require, in order to:

    - (a) protect, preserve, perfect or improve the Security intended to be conferred on the Lenders by or pursuant to the Deed of Assignment and Charge;
    - (b) to facilitate the realisation of all or any of the Charged Asset and exercise all of the rights and powers conferred on the Lenders, any Receiver or any delegate or either of the same for the purpose thereof or in connection therewith;
    - (c) to facilitate the exercise of any and all rights, powers, authorities and discretions intended to be vested in the Lenders, or any Receiver by or pursuant to the Deed of Assignment and Charge; or
    - (d) to facilitate the realisation of any Security, fixed charge or assignment which are, or are intended to be, conferred on the Lenders by the Deed of Assignment and Charge, after such Security or security interest has become enforceable or the exercise of any right, power or discretion in relation to any Charged Asset vested in the Lenders, any Receiver or any Delegate upon such enforcement.
4. **BOOK DEBTS**
  - 4.1 **Restrictions on dealing with Book Debts**

The Chargor has agreed that it shall not, without the consent of the Lenders:

    - (a) create or permit to subsist any Security over all or any of its Book Debts other than the Security granted under the Security Documents or as permitted under the Credit Agreement; and
    - (b) enter into a single transaction or a series of transactions to factor all or any part of any of its Book Debts other than as required under Clause 4 (Further Assurance and Additional Obligations) of the Deed of Assignment and Charge.
5. **APPOINTMENT AND RIGHTS OF RECEIVERS AND ADMINISTRATORS**
  - 5.1 **Appointment**
    - (a) If:
      - (i) so requested by the Chargor; or
      - (ii) any of the Charges given by the Chargor shall have become enforceable; or
      - (iii) a petition is presented or application made for the appointment of an administrator in respect of the Chargor or notice is given of the intention to appoint an Administrator,

the Lenders may, subject to paragraph (e) below, by deed under seal or in writing under the hand of any officer of the Lenders appoint any one or more persons to be a Receiver of any Charged Asset of the Chargor or, when permitted by law, may appoint an Administrator of the Chargor pursuant to paragraph 14 of Schedule B1 of the Insolvency Act 1986.
    - (b) The Lenders may in writing under hand (except subject to any requirement for a court order under the Insolvency Act 1986 or any other applicable insolvency law) similarly remove any Receiver.

Please refer to the continuation page.

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## Particulars of a mortgage or charge

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

Please give the short particulars of the property mortgaged or charged.

Short particulars

continued

5.1

- (c) If more than one person is appointed Receiver or Administrator of any assets, each Receiver or Administrator may act either jointly or severally unless the document appointing it states otherwise.
- (d) Section 109(1) of the Law of Property Act 1925 does not apply to the Deed of Assignment and Charge.
- (e) The Lenders are not entitled to appoint a Receiver solely as a result to the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under the Insolvency Act 2000, except with the leave of the court.
- (f) The Lenders are not entitled to appoint an administrative receiver if prohibited from doing so under section 72A of the Insolvency Act 1986.

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## Particulars of a mortgage or charge

### 7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his:

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.

Commission allowance  
or discount

N/A

### 8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 866).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 870). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

### 9 Signature

Please sign the form here.

Signature

Signature

X Bingham McCutchen (London) LLP X

25/11/09

This form must be signed by a person with an interest in the registration of the charge.



# MG01

## Particulars of a mortgage or charge



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name **Mark Mansell**

Company name **Bingham McCutchen (London) LLP**

Address **41 Lothbury**

Post town **London**

County/Region

Postcode **E C 2 R 7 H F**

Country **United Kingdom**

DX

Telephone **0207 661 5300**



### Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☒ The company name and number match the information held on the public Register.
- ☒ You have included the original deed with this form.
- ☒ You have entered the date the charge was created.
- ☒ You have supplied the description of the instrument.
- ☒ You have given details of the amount secured by the mortgagee or chargee.
- ☒ You have given details of the mortgagee(s) or person(s) entitled to the charge.
- ☒ You have entered the short particulars of all the property mortgaged or charged.
- ☒ You have signed the form.
- ☒ You have enclosed the correct fee.



### Important information

**Please note that all information on this form will appear on the public record.**



### How to pay

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

Make cheques or postal orders payable to 'Companies House.'



### Where to send

**You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below:**

**For companies registered in England and Wales:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**For companies registered in Scotland:**

The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**

The Registrar of Companies, Companies House,  
First Floor, Waterfront Plaza, 8 Laganbank Road,  
Belfast, Northern Ireland, BT1 3BS.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



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

**Pursuant to section 869(5) & (6) of the Companies Act 2006**

**COMPANY NO. 3918901  
CHARGE NO. 1**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEED OF ASSIGNMENT AND  
CHARGE DATED 5 NOVEMBER 2009 AND CREATED BY BAIN  
CAPITAL, LTD. FOR SECURING ALL MONIES DUE OR TO  
BECOME DUE FROM THE COMPANY TO BANK OF AMERICA,  
N.A. AND BROWN BROTHERS HARRIMAN & CO ON ANY  
ACCOUNT WHATSOEVER UNDER THE TERMS OF THE  
AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING  
THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1  
PART 25 OF THE COMPANIES ACT 2006 ON THE 25 NOVEMBER  
2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 27 NOVEMBER  
2009

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*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES