

# M

COMPANIES FORM No. 395 170177/870

# 395

CHWP000

Please do not  
write in  
this margin

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

\* insert full name  
of Company

## Particulars of a mortgage or charge

A fee of £10 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

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

For official use

Company number

04090163

Name of company

\* Spirit Group Retail (Northampton) Limited (the "Chargor")

Date of creation of the charge

15th December, 2003

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

Security Agreement (the "Deed") dated 15th December, 2003 between, amongst others, The Royal Bank of Scotland PLC as agent and trustee for the Finance Parties.

Amount secured by the mortgage or charge

All present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Finance Party under each Finance Document to which that Obligor is a party, including, without prejudice to the foregoing, all the liabilities of the Grantor under the Credit Agreement except for any obligation or liability which, if it were so included, would result in the Deed contravening Section 151 of the Companies Act 1985 (the "Secured Liabilities").

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

The Royal Bank of Scotland PLC (the "Facility Agent") of 2 1/2 Devonshire Square, London EC2M 4BB as agent and trustee for the Finance Parties.

Postcode

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

Allen & Overy, One New Change  
London EC4M 9QQ  
11398-01699

For official Use  
Mortgage Section

LD4  
COMPANIES HOUSE  
0358  
31/12/03

Time critical reference

Short particulars of all the property mortgaged or charged

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

*A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)*

Signed Allen & Avery

Date 30 December 2003

On behalf of ~~[Company]~~ [mortgaged chargee]†

† delete as  
appropriate

**Notes**

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his:
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-

**1. General**

- (a) All the security created under the Deed:
- (i) is created in favour of the Facility Agent;
  - (ii) is created over present and future assets of the Chargor;
  - (iii) is security for the payment of all the Secured Liabilities; and
  - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) Notwithstanding any other provision of the Deed, if the rights of the Chargor under a document cannot be secured without the consent of a party to that document:
- (i) the Chargor must notify the Facility Agent promptly;
  - (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself; and
  - (iii) unless the Facility Agent otherwise requires, the Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under the Deed.
- (c) The Facility Agent holds the benefit of the Deed on trust for the Finance Parties.

**2. Land**

- (a) The Chargor charges by way of first legal mortgage all estates or interests in the real property specified in the Schedule (Security Assets) to this Form 395 under the heading **Real Property** subject, in the case of any leasehold properties to any necessary third party's consent to such mortgage being obtained (the charge in relation to any such leasehold property to take effect immediately on such consent being obtained).
- (b) A reference in paragraph (a) above to a mortgage or charge of any freehold or leasehold property includes:
- (i) all buildings, fixtures, fittings and fixed plant and machinery on that property owned by the Chargor; and
  - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

**3. Plant and machinery**

The Chargor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession.

**4. Insurances**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.

**5. Restrictions on dealings**

The Chargor may not:

- (a) create or permit to subsist any Security Interest on any Security Asset other than pursuant to any Security Document; or
  - (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset,
- except as permitted under the Credit Agreement.

In this Form 395:

**Accession Agreement** means a letter, substantially in the form of Schedule 8 (Form of Accession Agreement) of the Credit Agreement, with such amendments as the Facility Agent may approve.

**Additional Borrower** means a member of the Target Group which becomes a Borrower after the date of the Credit Agreement.

**Additional Guarantor** means a member of the Group which becomes a Guarantor after the date of the Credit Agreement.

**Administrative Party** means a Mandated Lead Arranger or the Facility Agent.

**Agreed Security and Guarantee Memorandum** means the memorandum setting out the security and guarantees provided or to be provided by the Group and accepted by the Facility Agent in satisfaction of the relevant documentary condition precedent.

**Amber Newcos** means Amber 1, Amber 1A and Amber 2 as shown in the Completion Steps Paper.

**BidCo** means Spirit Amber BidCo Limited (registered number 04872046).

**Borrower** means the Company or an Additional Borrower.

**Company** means Spirit Amber Parent Limited (registered number 4872039).

**Completion Steps Paper** means the documents prepared by Slaughter and May comprising:

- (a) the set of 14 diagrams entitled "Payment Obligations";
- (b) the paper entitled "Project Amber – Detailed Step List";
- (c) the diagram entitled "Cash Flows"; and

(d) the paper entitled "Project Amber – Completion: Cash Flows",

in each case approved by the Facility Agent as a condition precedent.

**Credit Agreement** means the £2,500,000,000 credit agreement originally dated 5th October, 2003 as amended pursuant to a supplemental agreement dated 31st October, 2003 and from time to time between (among others) the Chargor and the Facility Agent.

**Fee Letter** means any letter entered into by reference to the Credit Agreement between one or more Administrative Parties and the Company and the Parent setting out the amount of certain fees referred to in the Credit Agreement.

**Finance Document** means:

- (a) the Credit Agreement;
- (b) a Security Document;
- (c) a Fee Letter;
- (d) a Transfer Certificate;
- (e) an Accession Agreement;
- (f) the Priority Deed;
- (g) a Hedging Document; or
- (h) any other document designated as such by (i) either the Mandated Lead Arrangers or the Facility Agent and (ii) the Company.

The term Finance Document includes all amendments and supplements including supplements providing for further advances.

**Finance Party** means a Lender, a Hedging Counterparty or an Administrative Party.

**Group** means the Parent and its Subsidiaries.

**Guarantor** means the Company, BidCo, the Parent, Intermediate Holdings, each Amber Newco, an Original Guarantor or an Additional Guarantor.

**Hedging Counterparty** means any hedging counterparty which has entered into a Hedging Document and is party to the Priority Deed as a hedging counterparty.

**Hedging Documents** means any ISDA master agreement and other currency or interest hedging agreements or documents which may be entered into by a member of the Group as contemplated in a Hedging Letter.

**Hedging Letter** means a letter dated on or about the date of the Credit Agreement between the Company and the Facility Agent relating to the hedging to be effected by the Group.

**Intermediate Holdings** means Spirit Intermediate Holdings Limited (registered number 4914762).

**Lender** means:

- (a) an Original Lender; or
- (b) any person which becomes a Lender after the date of the Credit Agreement.

**Mandated Lead Arrangers** means Barclays Capital (the investment banking division of Barclays Bank PLC), Citigroup Global Markets Limited, Merrill Lynch International and The Royal Bank Of Scotland PLC.

**Obligor** means a Borrower or a Guarantor.

**Original Guarantors** means Spirit Amber BidCo Limited (registered number 4872046), Spirit Amber Holdings Limited (registered number 4872028) and Spirit Amber Parent Limited (registered number 4872039).

**Original Lenders** means Barclays Bank PLC, Citibank N.A., Merrill Lynch Commercial Finance Corporation and The Royal Bank of Scotland plc.

**Parent** means Spirit Amber Holdings Limited (registered number 4872028).

**Party** means a party to the Credit Agreement.

**Priority Deed** means the subordination agreement dated on or about the date of the Credit Agreement between, among others, the Parties and certain other creditors of the Group.

**Security** means any security created by the Deed.

**Security Agreement** means a security agreement creating fixed and/or floating security interests substantially in the form agreed between the Facility Agent and the Company.

**Security Assets** means all assets of the Chargor the subject of any security created by the Deed.

**Security Document** means:

- (a) each Security Agreement; and
- (b) any other document evidencing or creating security over any asset of an Obligor to secure any obligation of any Obligor to a Finance Party under the Finance Documents including, without limitation, standard securities over and assignments of rent relative to land in Scotland and pledges of shares in Scottish companies as anticipated in the Agreed Security and Guarantee Memorandum.

**Security Interest** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a substantially similar legal effect or having the effect of creating security over an asset in favour of any person.

**Subsidiary** means:

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985; and

- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of section 258 of the Companies Act 1985.

**Target** means each of Aspect Ventures Limited (Registered number 2468264), Cleveland Place Holdings Limited (Registered number 57987), Partstripe Limited (Registered number 4555293), S&N Pubs and Restaurants Limited (Registered number SC086166), S&N Retail (Northampton) Limited (Registered number 4090163), Scottish & Newcastle Retail Limited (Registered number 379485) and Scottish & Newcastle Retail Pensions Limited (Registered number 2862968).

**Target Group** means each Target and its respective Subsidiaries.

**Transfer Certificate** means a certificate, substantially in the form of Schedule 5 (Form of Transfer Certificate) of the Credit Agreement, with such amendments as the Facility Agent may approve or reasonably require or any other form agreed between the Facility Agent and the Company.

**SCHEDULE**  
**SECURITY ASSETS**

**REAL PROPERTY**

1069	Quinceys - Bristol	North Filton, Bristol	BS34 7AA	SL	SGR	SGR(N)L	GR212594
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<b>Key to Owners (Disposal Properties)</b>	
<b>Legal Owners</b>	
Legal owners shaded in blue represent the intended future owners (transfers to be effected when the relevant landlords' consents have been obtained)	
SGR	Spirit Group Retail Limited
<b>Beneficial Owners</b>	
SGR	Spirit Group Retail Limited
SGR(N)L	The Chargor



FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04090163

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED THE 15th DECEMBER 2003 AND CREATED BY SPIRIT GROUP RETAIL (NORTHAMPTON) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM EACH OBLIGOR TO ANY FINANCE PARTY 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 DECEMBER 2003.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 7th JANUARY 2004.

*[Handwritten signature]*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES