

# M

COMPANIES FORM No 395

BB £10

## Particulars of a mortgage or charge

069848

# 395

CHFP000

A fee of £10 is payable to Companies House in respect of each register entry for the mortgage or charge.

Please do not write  
in this margin

Pursuant to section 395 of the Companies Act 1985

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

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

For Official use

Company Number

COMPANIES HOUSE

4093509

Name of Company

\* Canary Wharf (DS5) T1 Limited (the "Company")

\*insert full name of  
company

Date of creation of the charge

12 June 2001

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

A Deed of Charge dated 12 June 2001 (the "Deed of Charge") and made between Gibraltar Holdings Limited (the "DS5 Facility Provider"), the Company and Canary Wharf (DS5) T2 Limited (the "DS5 Borrowers") (each acting as trustee for and on behalf of Canary Wharf Limited), CWCB Finance II Limited and the other companies named therein.

Amount secured by the mortgage or charge

Please see Continuation Sheet, Clause 2

Name and address of the mortgagees or persons entitled to the charge

Gibraltar Holdings Limited, Ugland House, P.O. Box 309, South Church Street, George Town,  
Grand Cayman, Cayman Islands

Postcode

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

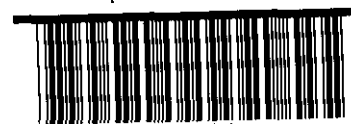
Linklaters  
One Silk Street  
London EC2Y 8HQ  
Tel: 020 7456 5304

Ref: JJR/KXP/DYP/14706595

Time critical reference

For official Use  
Mortgage Section

Post room



A12  
COMPANIES HOUSE

0879  
28/06/01

Short particulars of all the property mortgaged or charged

Please see Continuation Sheet, Clause 3

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)

N/A

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

Signed Clifford Chance Limited Liability Partnership Date 27/06/01  
On behalf of ~~mortgagee/chargee~~ Company

**Note**

<sup>†</sup>Delete as appropriate

1. The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
2. A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
3. In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his:
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional, for any of the debentures including 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:-

**Canary Wharf (DS5) T1 Limited**

**(Registered Number 4093509)**

**Form 395 - Continuation Sheet**

**1 Definitions**

In this Form 395, the following terms have the following meanings:

**"affiliate"** means, in relation to any specified person, any other person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the specified person (and "control" for the purposes of this definition means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise and "controlling" and "controlled" shall be construed accordingly);

**"Agreements for Lease"** means:

- (a) an agreement for lease dated 27 February 1999 made between Canary Wharf Limited (1) Canary Wharf Group plc (2) Plantbrass Limited (3) and Citicorp (4) in respect of the development and leasing of the entrance lobby, floors 1-14 (inclusive) 17-19 (inclusive) and floors 41 and 42 of the Building as rectified, varied and supplemented pursuant to a rectification agreement dated 19 October 1999, variation agreements dated 21 December 1999 and 28 February 2000, a supplemental deed dated 31 May 2000 and a variation agreement dated 25 May 2001;
- (b) an agreement for lease in respect of the development and leasing of floors 20-24 (inclusive) and floors 35-40 (inclusive) of the Building which agreement is constituted by a call option agreement dated 21 December 1999 made between Canary Wharf Limited (1) Canary Wharf Group plc (2) and Plantbrass Limited (3) (as varied by a deed of variation dated 28 February 2000) and the service of an option notice on 28 February 2000 by Plantbrass Limited and Citicorp which agreement for lease was further varied and supplemented by a deed of variation dated 28 February 2000, a supplemental deed dated 31 May 2000 and a deed of variation dated 25 May 2001;
- (c) an agreement for lease in respect of the development and leasing of floors 25-34 (inclusive) of the Building constituted by first refusal agreement dated 21 December 1999, the service of an offer notice by Canary Wharf Limited and the counter signature of the offer notice by the tenant and Citicorp (as varied by a supplemental deed dated 31 May 2000) and a deed of variation dated 25 May 2001,

**"Authorised Guarantor"** means the Initial DS5 Tenant and the Initial Surety in its capacity as a guarantor under or of any authorised guarantee agreement which come into effect on an assignment of any of the Initial DS5 Lease Documents by the Initial DS5 Tenant in accordance with Clause 4.21.2(b) of the Lease or any equivalent clause in the Initial DS5 Lease Documents.

**"Bank"** has the meaning given to such term in the Rental Undertaking.

**"Beneficiary"** has the meaning given to such term in the Rental Undertaking, and shall include any successor beneficiary under the Rental Undertaking in accordance with the terms thereof.

**"Building"** has the meaning given to that term in the Rental Undertaking.

**"Business Day"** means a day (other than a Saturday or Sunday or a Jewish holy day listed in Schedule 8 to the Intercompany Loan Agreement) on which banks are generally open for business in both London and the Cayman Islands.

**"Charging Sub-Borrowers"** means CWCBC Properties (DS5) Limited and Canary Wharf Investments (DS5) Limited.

**"Charging Sub-Borrower Charged Property"** means the property described in Clause 3.3 of the Deed of Charge (or any part thereof).

**"Charging Sub-Borrower Obligations"** means all present and future obligations (whether actual or contingent) and liabilities of the Charging Sub-Borrowers to repay to the DS5 Borrowers all sums treated as lent to the Charging Sub-Borrowers by the DS5 Borrowers upon the crediting of any sum to the Rental Receipts Account which constitutes a Recovery Amount.

**"CLN Issuer"** means Gibraltar Holdings Limited (registered in the Cayman Islands with No. 109993).

**"DS5 Borrower Charged Property"** means the property described in Clause 3.4 of the Deed of Charge (or any part thereof) and all other securities and loans and capital moneys and investments representing the same which at any time shall or ought pursuant to any provision of the Deed of Charge to be charged or assigned by way of security in favour of the DS5 Facility Provider as security for the DS5 Borrower Obligations.

**"DS5 Facility"** means the facility referred to in Clause 2.1 of the DS5 Facility Agreement.

**"DS5 Facility Agreement"** means the facility agreement dated 12 June 2001 and made between the CLN Issuer, the DS5 Borrowers (each acting as trustee for and on behalf of Canary Wharf Limited) and the Securitisation Trustee.

**"DS5 Facility Cap Amount"** means the maximum amount which can be advanced under the DS5 Facility Agreement on any particular DS5 Facility Drawdown Date, being in each case the applicable amount specified in Schedule 3 to the DS5 Facility Agreement.

**"DS5 Facility Drawdown Date"** means each date falling six Business Days prior to each Intercompany Loan Interest Payment Date.

**"DS5 Facility Drawing"** means an advance made or to be made under the DS5 Facility, subject to the limits specified in Clause 2.2 and Clause 2.3 of the DS5 Facility Agreement.

**"DS5 Facility Provider"** means Gibraltar Holdings Limited (registered in the Cayman Islands with No. 109993).

**"Initial DS5 Lease Documents"** means the Lease Documents pursuant to which the Initial DS5 Tenant has its interest(s) in the Building and any Lease Documents that the Initial DS5 Tenant or Initial Surety are required to enter into as tenant(s) pursuant to their capacity as Authorised Guarantors.

**"Initial DS5 Tenant"** means Plantbrass Limited and any immediate assignee of Plantbrass Limited of the Initial DS5 Lease Documents which is an affiliate of Plantbrass Limited.

**"Initial Surety"** means Citicorp.

**"Intercompany Loan Agreement"** means the loan agreement dated 6 June 2000 between, amongst others, CW Lending II Limited, Canary Wharf Finance II plc and Canary Wharf Limited as supplemented, amended and/or restated from time to time.

**"Intercompany Loan Interest Payment Date"** has the meaning given to the term "Interest Payment Date" in the Intercompany Loan Agreement.

**"Intermediate Borrower"** means CWCB Finance II Limited (registered in England and Wales no. 3605340).

**"Intermediate Borrower Obligations"** means all present and future obligations and liabilities (whether actual or contingent) of the Intermediate Borrower to repay to the Charging Sub-Borrowers all sums treated as lent to the Intermediate Borrower by the Charging Sub-Borrowers upon the crediting of any sum to the Rental Receipts Account which constitutes a Recovery Amount;

**"Landlord"** means the landlord from time to time under any of the Lease Documents.

**"Lease"** means a lease of a Section or Sections granted or to be granted pursuant to an Agreement for Lease and **"Leases"** means all of them.

**"Lease Documents"** means (a) the Agreements for Lease, (b) the Lease, (c) any Replacement Lease and (d) any document designated as such by the parties from time to time.

**"Loss of Rent Insurance Excess Amount"** means any amount by which any proceeds under a loss of rent insurance policy received by a DS5 Borrower in respect of any Rental Payment Date exceeds the DS5 Facility Cap Amount specified for such date in Schedule 3 to the DS5 Facility Agreement.

**"Practical Completion Date"** in respect of a Section means the date as determined in accordance with the Agreement for Lease.

**"Premises"** means that part of the Building leased or to be leased to the Initial DS5 Tenant more particularly described in each Agreement for Lease.

**"Recovery Amounts"** means (i) any amount in respect of unpaid Rental (whether received from the Bank, any tenant of the Building, any surety of the Building under the Lease Documents or otherwise) which has been the subject of a DS5 Facility Drawing hereunder to the extent of such drawing which is received by the Beneficiary or, as the case may be, the Landlord and (ii) any amount in respect of rental initially reserved under clause 3(a) of the Lease (and any equivalent rent reserved by the Lease Documents from time to time) which is received by the Beneficiary or, as the case may be, the Landlord in respect of the Building (received from any person as aforesaid) or rent (received from any Replacement Tenant or any Replacement Surety) in respect of any Rental Payment Date which is in excess of the DS5 Facility Cap Amount specified for such date in Schedule 3 of the DS5 Facility Agreement and (iii) any Loss of Rent Insurance Excess Amount.

**"Related Rights"** means, in relation to any asset,

- (i) the proceeds of sale of any part of that asset;
- (ii) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (iii) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset; and

any moneys and proceeds paid or payable in respect of that asset.

**"Rental"** means the initial rent reserved under clause 3(a) of the Lease and any equivalent rent reserved by any of the Lease Documents from time to time and as from the date on which the first rent review under the Lease is carried out, means the rent reserved following such rent review (but excluding any rent reserved following any subsequent rent review).

**"Rental Payment Date"** means 1 January, 1 April, 1 July and 1 October in each year.

**"Rental Receipts Account"** has the meaning given to that term in the Intercompany Loan Agreement.

**"Rental Undertaking"** means the rental undertaking dated on or around 12 June 2001 and made by the Bank in favour of the DS5 Borrowers.

**"Repayment Date"** means 22 October 2037 (or if such date is not a Business Day, the following Business Day).

**"Replacement Lease"** means in respect of the Lease or the Agreement for Lease (or any previous Replacement Lease) any agreement for lease or occupational lease of the whole or any part of the Building, which is in effect for any period prior to the Repayment Date which replaces the Lease, Agreement for Lease or previous Replacement Lease.

**"Replacement Surety"** means a surety under a Replacement Lease, and its successors in title.

**"Replacement Tenant"** means a tenant under a Replacement Lease, and its successors in title.

**"Section"** or **"Sections"** means any part or those parts (as the case may be) of the Premises for which there may be a separate Practical Completion Date pursuant to the terms of the Agreements for Leases.

**"Security Interest"** means any mortgage, pledge, lien, charge, security assignment, hypothecation or security interest or any other agreement or arrangement (such as sale or lease and leaseback, a blocked account, set-off or similar "flawed asset" arrangement having) a commercial effect analogous to the conferring of security.

**"Securitisation Trust Deed"** means the trust deed entered into on 6 June 2000 between Canary Wharf Finance II Plc and the Securitisation Trustee, as amended, supplemented and restated from time to time.

**"Securitisation Trustee"** means Bankers Trustee Company Limited or any successor Securitisation Trustee appointed pursuant to the Securitisation Trust Deed.

## **2 Amount secured by the mortgage or charge**

- (a) The amount secured by the Deed of Charge being all present and future obligations and liabilities (whether actual or contingent) of the Company under or pursuant to, or relating to or arising out of the DS5 Facility Agreement (including, without limitation, all moneys that may be or become due or owing as a result of any modifications or variation to the DS5 Facility Agreement) (the **"DS5 Borrower Obligations"**).

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

- 3.1** Under the Deed of Charge as continuing security for the fulfilment and payment of all the DS5 Borrower Obligations, the Company with full title guarantee:

- 3.1.1** granted by way of first fixed sub-charge, all rights, title and interest and Related Rights of it in and to the Charging Sub-Borrower Charged Property;

- 3.1.2 assigned all rights, title and interest (and Related Rights) of it against:
- (i) any tenant of the Building or insurers or sureties thereof,
  - (ii) the rental undertaking provider under the Rental Undertaking,
  - (iii) any Authorised Guarantor, in respect of amounts which, if paid in whole or part to the Company (or directly into the Rental Receipts Account) would constitute Recovery Amounts; and
- 3.1.3 assigned all rights, title and interest (and Related Rights) in respect of all loans treated as made by it to the Charging Sub-Borrowers upon the crediting of any sum to the Rental Receipts Account which constituted a Recovery Amount.
- 3.2 In addition, so long as any of the Charging Sub-Borrower Obligations, the DS5 Borrower Obligations or the Intermediate Borrower Obligations remains outstanding, the Company has undertaken pursuant to the terms of the Deed of Charge not to create any Security Interest over the DS5 Borrower Charged Property (otherwise as than contemplated in the Deed of Charge) and has agreed to execute such other documents as may be necessary or, in the opinion of the DS5 Facility Provider, desirable to ensure that the security constituted by the Deed of Charge, is and remains legal, valid, binding and enforceable.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04093509

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEED OF CHARGE BETWEEN GIBRALTAR HOLDINGS LIMITED (THE "DS5 FACILITY PROVIDER"), THE COMPANY AND CANARY WHARF (DS5) T2 LIMITED (THE "DS5 BORROWERS") (EACH ACTING AS TRUSTEE FOR CANARY WHARF LIMITED), CWCBC FINANCE II LIMITED AND THE OTHER COMPANIES NAMED THEREIN DATED THE 12th JUNE 2001 AND CREATED BY CANARY WHARF (DS5) T1 LIMITED FOR SECURING ALL PRESENT AND FUTURE OBLIGATIONS (WHETHER ACTUAL OR CONTINGENT) AND LIABILITIES OF THE COMPANY UNDER OR PURSUANT TO, OR RELATING TO OR ARISING OUT OF THE DS5 FACILITY AGREEMENT (INCLUDING, WITHOUT LIMITATION, ALL MONEYS THAT MAY BE OR BECOME DUE OR OWING AS A RESULT OF ANY MODIFICATIONS OR VARIATION TO THE DS5 FACILITY AGREEMENT) (ALL TERMS AS DEFINED) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 28th JUNE 2001.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 9th JULY 2001.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —

PEG

HC026B