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Particulars of a mortgage or charge

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

Pursuant to section 395 of the Companies Act 1985

Please do not  
write in  
this margin

CHFP025

To the Registrar of Companies

For official use

Company Number

4122783

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

\*Insert full name of  
company

Name of company

Freshney Place (No. 2) Limited (the "Chargor")

Date of creation of the charge

3rd July 2002

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

Deed of Debenture (the "Deed")

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 the Borrower to the Lender (whether under the Finance Documents or otherwise) except for any obligation which, if it were so included, would result in a contravention of 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 located at Level 8, 135 Bishopsgate London EC2M 3UR (the "Lender")

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

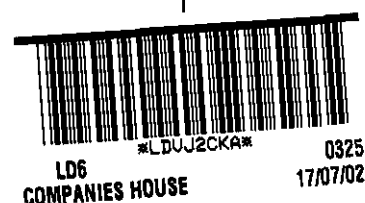
THEODORE GODDARD  
BOX 500  
21 BLOOMSBURY STREET  
LONDON

Ref: 945/919/4919.762/Ald7/54161

For official use

Mortgage Section

Post room



Time critical reference

## 1. Fixed Security

### 1.1 Creation

The Chargor, as security for the payment and performance of the Secured Liabilities and in the manner specified in paragraph 1.3 of this Form 395 below:

- (a) charged in favour of the Lender by way of a first legal mortgage all the property specified in Schedule 1 and all other interests in any freehold or leasehold property at the date of the Deed or thereafter belonging to it; and
- (b) charged in favour of the Lender by way of a first fixed charge:
  - (i) (to the extent that they are not within paragraph 1.1(a) above) all interests in any freehold or leasehold property at the date of the Deed

### Particulars as to commission allowance or discount (note 3)

N/A

Signed Theodore Caldwell Date 17 July 2002

On behalf of [company] mortgagee/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 made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-

Companies House, Crown Way, Cardiff CF4 3UZ

or thereafter belonging to it;

- (ii) all of its rights and benefit under any agreement relating to the acquisition of the Mortgaged Property by it or for it and the benefit of all agreements, contracts, deeds, undertakings, guarantees, warranties and other documents at the date of the Deed or thereafter in existence in relation to the Mortgaged Property;
- (iii) all plant and machinery belonging to it and its interest in any plant or machinery in its possession and in all Fixtures;
- (iv) all of its benefits, claims and returns of premiums in respect of the Insurances;
- (v) its rights under any appointment of a managing agent of the Mortgaged Property or any Premises;
- (vi) all moneys standing to the credit of any account (notwithstanding that the existence of such an account may be in breach of the Deed) with any person and the debts represented by them;
- (vii) its goodwill and its uncalled capital;
- (viii) its book and other debts, both uncollected and collected, the proceeds of the same and all moneys otherwise due and owing to it;
- (ix) the benefit of all rights, securities and guarantees of whatsoever nature enjoyed or held by it in relation to anything in sub-paragraph 1.1(b)(viii) above;
- (x) the benefit of all permissions of whatsoever nature and whether statutory or otherwise, held in connection with its business or the use of any Security Asset and the right to recover and receive all compensation which may be payable to it;
- (xi) the benefit, to the extent vested in it, of all building contracts, professionals' appointments, guarantees, warranties and representations given or made by any building contractors, professional advisers or any other person in relation to the Mortgaged Property, including all rights and remedies available to it against such persons; and
- (xii) its rights and benefits under any patents, trade marks, copyrights, registered or other designs (including, without limitation, designs relating to any construction works on the Mortgaged Property) and any other similar intellectual property assets or rights.

## 1.2 Assignment

The Chargor, in the manner specified in paragraph 1.3 below, assigned to the Lender by way of first ranking security for the payment and performance of the Secured Liabilities all of its right, title and interest (if any) in and to:

- (a) all Rental Income and any guarantee of any Rental Income and the other rights of the Chargor contained in or relating to the Occupational Leases; and
- (b) all its rights (if any) under the Insurances and any other insurances relating to any Mortgaged Property to which the Chargor is entitled including without limitation any title indemnity policy in favour of the Chargor.

### 1.3 Title Guarantee

- (a) Every disposition effected by the Deed is made with full title guarantee.
- (b) The other terms of the Deed do not limit or extend any of the covenants implied by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994 but create separate and independent obligations having effect cumulatively with those implied covenants.

## 2. Floating Charge

The Chargor as security for the payment of the Secured Liabilities and in the manner specified in paragraph 1.3 above charged in favour of the Lender by way of first ranking floating charge all its assets not otherwise effectively mortgaged or charged by way of fixed mortgage, fixed charge or assignment by way of security by Clause 2 of the Deed as referred to in paragraph 1 above.

## 3. Restrictions on dealings

The Chargor agreed that it would not, save as otherwise permitted by the Finance Documents:

- (a) create or permit to subsist any Encumbrance of whatsoever nature on any Security Asset; or
- (b) sell, transfer, grant, lease or otherwise dispose of any Security Asset.

### 3.1 Definitions

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

**"Advance"** means any amount advanced or to be advanced by the Lender under the Facility as reduced by repayment or prepayment hereunder;

**"Assignment of Rents"** means in relation to a Property located in Scotland an assignation of rents in relation to such Property in such form as the Lender may reasonably require entered or to be entered into by the General Partner or other Nominee holding legal title to such Property as trustee in favour of the Lender.

**"Borrower"** means The Arkle Fund, a limited partnership established under the laws of England and Wales and registered under the Limited Partnership Act 1907 with registration number LP5690 acting by its general partner the General Partner;

**"Burton Property"** means the property known as Cooper Square Shopping Centre, Burton upon Trent (as described in paragraph 1 of Schedule 1 to the Debenture) and each and every part thereof (and the whole of the Borrower's interest therein and the Fixtures thereon);

**"Business Day"** has the meaning ascribed to it in the Facility Agreement;

**"Debenture"** means the deed of debenture entered or to be entered on or after the date of the Facility Agreement between the Obligors and the Lender (and as the same may be supplemented by or pursuant to any Supplemental Legal Charge, Standard Security and/or Assignment of Rents entered into from time to time);

**"Durham Property"** means the property known as Prince Bishops Shopping Centre, Durham (as described in paragraph 2 of Schedule 1 to the Debenture) and each and every part thereof (and the whole of the Borrower's interest therein and the Fixtures thereon);

**"Eligible Property"** means a property notice of the proposed financing of which hereunder is given by the Borrower to the Lender not later than fifteen Business Days prior to the acquisition thereof:

- (a) which is located in the United Kingdom;
- (b) which is, in respect of property which is located in England and Wales, owned or to be owned (as to the beneficial interest therein) by the Borrower and (as to the bare legal title thereto) by the General Partner or one or more nominee companies incorporated in England and Wales or such other jurisdiction approved by the Lender or, in respect of a property which is located in Scotland, legal title to which is held by the General Partner or one or more nominee companies incorporated in England and Wales or such other jurisdiction approved by the Lender in trust for the Borrower and/or its constituent partners;
- (c) which complies with the Investment Criteria (as defined at the date of this Agreement in the Partnership Agreement) and which is not the subject of a determination by the Lender (acting reasonably) that, notwithstanding that such property complies with such Investment Criteria, such Property is nevertheless (for reasons stated by the Lender) unsatisfactory for financing hereunder; and
- (d) in respect of which the Lender has received each of the items specified in Part 2 of Schedule 1 to the Facility Agreement in each case in a form satisfactory to the Lender.

**"Encumbrance"** means any mortgage, standard security, assignment by way of security, assignment in security, charge, pledge, assignment of rents, floating charge, lien or other interest by way of security or encumbrance whatsoever;

**"Facility Agreement"** means the facility agreement dated on or about the date of the Deed and entered into between the Borrower as borrower and the Lender as lender;

**"Facility"** has the meaning ascribed to it in the Facility Agreement;

**"Facility Obligor"** means each of

- (a) the Borrower;
- (b) the General Partner;
- (c) the General Partner as trustee for the Borrower or its constituent partners; and
- (d) each Nominee;

**"Fixtures"** means all fixtures and fittings (including those of trade but excluding fixtures and fittings in the nature of tenants' trade fixtures and fittings which such tenant shall be entitled to remove from a Mortgaged Property at the expiration or sooner determination of the applicable Occupational Lease) and fixed plant and machinery on the Mortgaged Property;

**"Finance Documents"** means the Facility Agreement, each of the Security Documents, each Hedging Agreement and any other document relating to any of the foregoing (and **"Finance Document"** means any of the foregoing);

**"General Partner"** means Grosvenor UK Properties Limited (incorporated under the laws of England and Wales with registration number 3219976 and having its registration office at 70 Grosvenor Street, London W1K 3JP the general partner for The Arkle Fund;

**"Grimsby Property"** means the property known as Freshney Place Shopping Centre, Grimsby (as described in paragraph 3 of Schedule 1 to the Debenture) and each and every part thereof (and the whole of the Borrower's interest therein and the Fixtures thereon);

**"Hedging Agreement"** means any interest rate or currency or other hedging agreement entered or to be entered into by the Borrower and the Lender for the purpose of implementing the Hedging Strategy;

**"Hedging Strategy"** means the strategy for the hedging of the Borrower's exposure to interest rate movement risk in relation to the Facility as agreed prior to the date of the Facility Agreement between the Borrower and the Lender;

**"Initial Property"** means each of:

- (a) the Durham Property;
- (b) the Burton Property; and
- (c) the Grimsby Property;

**"Insurances"** means all contracts and policies of insurance taken out by or for the Chargor or in which the Chargor has an interest in accordance with Clause 11.26 of the Facility Agreement (to the extent of that interest);

**"Mortgaged Property"** means at any time all freehold or leasehold property of the Chargor which is subject to a legal mortgage or fixed charge created by the Deed at such time (including the Premises thereof);

**"New Property"** means each Eligible Property the acquisition of the beneficial (but not the legal) title to which by the Borrower, in respect of an Eligible Property located in England or Wales, and each Eligible Property the acquisition of which by the General Partner or such other Nominee as trustee for the Borrower or its constituent partners in respect of an Eligible Property located in Scotland, in each case has been financed (in whole or in part) by the proceeds of an Advance hereunder and each and every part thereof (and the whole of the Obligors' interest therein and the Fixtures thereon);

**"Nominee"** means any person (being a company incorporated in England and Wales or such other jurisdiction as the Lender shall approve and which may include the General Partner) holding legal title to a Property for the Borrower, such person(s):

- (a) in relation to the Burton Property being Cooper Square Limited (a company incorporated in Guernsey with registration number 35845);
- (b) in relation to the Durham Property being Prince Bishops Limited (a company incorporation in Guernsey with registration number 35530); and
- (c) in relation to the Grimsby Property being Freshney Place (No.1) Limited and Freshney Place (No.2) Limited (in each case being companies incorporated in England and Wales with registration numbers 4122794 and 4122783 respectively) in relation to that part of the Grimsby Property specified in paragraph 3(a) of Schedule 1 to the Debenture and the General Partner in relation to that part of the Grimsby Property specified in paragraph 3(b) of Schedule 1 to the Debenture;

**"Nominee Debenture"** has the meaning ascribed to it in the Facility Agreement;

**"Nominee Share Security Agreement"** has the meaning ascribed to it in the Facility Agreement;

**"Obligor"** means each of the Borrower and the General Partner (and **"Obligors"** shall be construed accordingly);

**"Occupational Lease"** has the meaning ascribed to it in the Facility Agreement;

**"Partnership Agreement"** means the limited partnership agreement dated 28th January 1998 and made between the General Partner and Grosvenor Realty Investments Limited;

**"Premises"** means any building or other edifice from time to time on a Property;

**"Property"** means each of the following:

- (a) each Initial Property;
- (b) each New Property

- (c) (and **"Properties"** shall be construed accordingly) from such time as the same is subject to the Debenture and the applicable Nominee Debenture (and any property shall cease to constitute a Property for the purposes of the Facility Agreement when the same ceases to be subject to the Encumbrances contained in the Debenture and the applicable Nominee Debenture in accordance with the provisions thereof);

**"Rental Income"** means at any time:

- (a) the aggregate of the gross rents, licence fees and other monies reserved by or arising out of all Occupational Leases payable to any Facility Obligor; and
- (b) all other monies derived by any Facility Obligor from any third parties relating to the use and/or occupation of a Property (including, without limitation, profits, proceeds of insurance in respect of loss of rent, payments made by any guarantor for any lessee or other occupier and any covenantor under any Occupational Lease and sums received from any deposit held as security for the performance of tenants' or other occupier's obligations);

**"Security Assets"** means all assets of the Chargor which are the subject of any security created by or pursuant to the Deed;

**"Security Documents"** means the Debenture, each Nominee Debenture, each Nominee Share Security Agreement, each Assignment of Rents and such other documents entered into from time to time and designated as such by agreement between the Borrower and the Lender;

**"Standard Security"** means a standard security in such form as the Lender may reasonably require entered or to be entered into by the relevant Facility Obligor in favour of the Lender over its heritable interest in any New Property located in Scotland;

**"Supplemental Legal Charge"** means a supplemental legal charge in substantially the form specified in Schedule 8 of the Debenture entered or to be entered into by the General Partner in favour of the Lender over the General Partner's legal interest in any New Property located in England and Wales;

**"The Arkle Fund"** a limited partnership established under the laws of England and Wales and registered under the Limited Partnership Act 1907 with registration number LP5690.

## **SCHEDULE 1**

### **Mortgaged Property**

The property known as Freshney Place Shopping Centre, Grimsby registered at HM Land Registry with Freehold Title Absolute under Title No. HS3667.



FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04122783

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 3rd JULY 2002 AND CREATED BY FRESHNEY PLACE (NO.2) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE ROYAL BANK OF SCOTLAND plc 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 17th JULY 2002.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 22nd JULY 2002.

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THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —