

# M

COMPANIES FORM No. 395

525116/52

## Particulars of a mortgage or charge

# 395

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

1110

04450369

Name of company

\* Castlebeck Group Limited (the "Company")

Date of creation of the charge

15 March 2005

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

Security Agreement made between the Company, Castlebeck Care Holdings Limited, Castlebeck Care (Teesdale) Limited and Young Foundations Limited (1) and The Royal Bank of Scotland plc as agent and trustee for the Beneficiaries (as defined in the Security Agreement) (2)

Amount secured by the mortgage or charge

See part 1 of the attached schedule (the "Schedule")

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

The Royal Bank of Scotland Plc as agent and trustee for the Beneficiaries  
26 St Andrew Square, Edinburgh

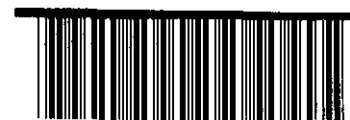
Postcode EH2 2YB

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

Macfarlanes  
10 Norwich Street  
London  
EC4A 1BD  
Ref NXH/586119/2681888.1

For official Use  
Mortgage Section

Post room



LD5  
COMPANIES HOUSE

\*LWPHF3SN\*

0414  
22/03/05

Time critical reference

Short particulars of all the property mortgaged or charged

See part 2 of the Schedule

N.B. Part 3 of the Schedule contains certain restrictions on the Company relating to the Security Agreement but it is not exhaustive.

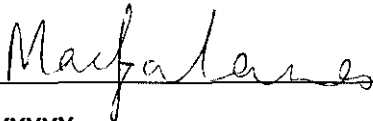
Please do not write in this margin

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

Particulars as to commission allowance or discount (note 3)

None

Signed



Date 21 MARCH 2005

On behalf of ~~[company]~~ [mortgagee/chargee] †

A fee of £10 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 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-

Companies House, Crown Way, Cardiff CF14 3UZ

## SCHEDULE

Schedule to the Form 395 in respect of the Security Agreement given by, among others, the Company in favour of the Security Trustee as agent and trustee for the Beneficiaries dated 15 March 2005.

### 1 Definitions

1.1 In this Schedule to the Form 395 the following words and expressions shall have the meanings respectively set out against them below:-

**Accounts:** means all accounts (including the Designated Accounts), and all moneys from time standing to the credit (including any interest thereon) of such accounts and all rights in relation thereto, with any bank, financial institution or other person in any jurisdiction now or at any time hereafter (and from time to time) owned, operated or held by the Company or in which the Company has an interest;

**Assigned Agreements:** means the Acquisition Documents, the Reports and the Key-man Policies (as each such term is defined in the Security Agreement);

**Beneficiaries** means the Security Trustee and each Finance Party;

**Charged Property:** means all the assets for the time being subject to the Security Interests created by the Security Agreement (and references to the Charged Property include references to any part of it);

**Debts:** means all book debts, other debts, receivables and liabilities of any kind whatsoever at the date of the Security Agreement or at any time thereafter (and from time to time) due, owing or payable to the Company or in which the Company has an interest and the proceeds of the same, including the benefit of any judgment or order to pay a sum of money, and the benefit of all rights, securities and guarantees of any nature whether at the date of the Security Agreement or in the future enjoyed or held by it in relation to any of the same and all bills of exchange, promissory notes and other negotiable instruments at the date of the Security Agreement or at any time thereafter (and from time to time) owned or held by the Company or in which the Company has an interest, including all liens, reservations of title, rights of tracing and other rights enabling the Company to enforce such debts;

**Designated Accounts:** means each Mandatory Prepayment Account and each Holding Account (as such terms are defined in the Facilities Agreement);

**Equipment:** means all equipment, plant, machinery, tools, vehicles, furniture and other tangible moveable property at the date of the Security Agreement or at any time thereafter (and from time to time) owned by the Company or in which the Company has an interest, and any part thereof, together with all spare parts, replacements, modifications and additions thereto and the benefit of all contracts and warranties relating to the same;

**Facilities Agreement:** means the agreement dated 11 March 2005 and made between, among others, Castlebeck Group Limited as Topco and The Royal Bank of Scotland plc in various capacities relating to certain loan and other banking facilities;

**Finance Documents:** means the Finance Documents (as such term is defined in the Facilities Agreement);

**Finance Parties:** means the Finance Parties (as such term is defined in the Facilities Agreement);

**Floating Charge Property:** means all the assets for the time being subject to the floating charge created by the Security Agreement (and references to the Floating Charge Property include references to any part of it);

**Goodwill:** means all goodwill (including brands and brand names not comprising Intellectual Property) of or in the Company at the date of the Security Agreement or at any time thereafter (and from time to time);

**Insurance Policies:** means all contracts and policies of insurance or assurance (including the Key-man Policies and any insurance relating to the Properties or the Equipment but excluding any third party liability policies, public liability insurance and directors and officers insurance) and all moneys payable under or pursuant to such policies and all rights and interests in such contracts and policies including the right to the refund of any premium, in each case, now or at any time hereafter (and from time to time) owned or taken out by the Company or in which the Company has an interest;

**Intellectual Property:** means:

- (i) any patents, trade marks, service marks, designs, business names, databases, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered in each case, at the date of the Security Agreement or at any time thereafter (and from time to time) owned or held by the Company or in which the Company has an interest; and
- (ii) the benefit of all applications and rights to use such assets;

**Lenders:** means the Lenders (as such term is defined in the Facilities Agreement);

**Other Rights:** means the benefit of all agreements, licences, consents and authorisations relating to the business of the Company or any Charged Property and the right to recover and receive all compensation which may be payable in respect of them, in each case, now or at any time hereafter (and from time to time) owned or held by the Company or in which the Company has an interest;

**Pension Fund Interests:** means all interests and rights at the date of the Security Agreement or at any time thereafter (and from time to time) owned or held by the Company in relation to any pensions funds;

**Properties:** means all estates or interests in any freehold, heritable and leasehold properties (whether registered or unregistered) and all commonhold and other immoveable properties now or at any time hereafter (and from time to time) owned by the Company, or in which the Company has an interest, wheresoever situate and all buildings, structures and fixtures thereon and the proceeds of sale of all or any part thereof and “Property” means any of them;

**Property Interests:** means all interests in or over the Properties and all rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Properties in each case, at the date of the Security Agreement or at any time thereafter (and from time to time) owned or held by the Company;

**Scottish Property:** means any Property situated in Scotland together with the proceeds of sale thereof;

**Secured Liabilities:** means all present and future moneys, obligations and liabilities owed by any Principal Debtor (as defined in the Security Agreement) to the Beneficiaries, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever under or in connection with the Finance Documents and (for the avoidance of doubt) such monies, obligations and liabilities include all those which may arise pursuant to Clause 19.3.2 of the Security Agreement;

**Securities:** means all stocks, shares, debentures, debenture stock, loan capital, securities, bonds and investments of any kind whatsoever (whether or not marketable) at the date of the Security Agreement or at any time thereafter (and from time to time) owned by the Company, or in which the Company has an interest (whether certificated or uncertificated and whether in registered or unregistered form), together with all allotments offered or arising in respect thereof or incidental thereto and all stocks, shares, loan capital, securities, bonds, investments, rights, income, money or property accruing, deriving, offered or paid from time to time by way of dividend, distribution, interest, exchange, capital reorganisation, conversion, redemption, bonus, rights, preference, option or otherwise in respect thereof;

**Securities System:** means any securities system including CREST and any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of and/or clearance of transactions in Securities;

**Securities System Rights:** means all rights against the operator of any Securities System in relation to any Securities that are held in a Securities System or any participant in relation to any Securities, in each case, at the date of the Security Agreement or at any time thereafter (and from time to time) owned or held by the Company;

**Security Interest:** means a Security as defined in the Facilities Agreement;

**Security Period:** means the period starting on the date of the Security Agreement and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

**Short Leasehold Property:** means any property held pursuant to:

- (i) a lease dated 8 June 2004 and made between A.E Burt and Company Limited and Castlebeck Care (Teesdale) Limited relating to Unit 1A, Enterprise House, Valley Street North, Darlington DL1 1GY;
- (ii) a lease 8 June 2004 and made between A.E Burt and Company Limited and Castlebeck Care (Teesdale) Limited relating to Unit 2E, Enterprise House, Valley Street North, Darlington DL1 1GY; and

- (iii) a lease terminating 31 October 2005 to be made between A.E Burt and Company Limited and Castlebeck Care (Teesdale) Limited relating to the first floor of Oakwood House, 82 Eastmount Road, Darlington, County Durham, DL1 1LA;

**Uncalled Capital:** means all the uncalled capital of the Company now or at any time hereafter (and from time to time).

## **Part 1**

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

The Company covenanted with the Security Trustee (as trustee for the Beneficiaries) that it would on demand pay and discharge all Secured Liabilities owing or incurred from or by it to the Beneficiaries when the same became due and payable in the manner provided for in the relevant Finance Documents.

The Security Agreement secures further advances made under or pursuant to the terms of the Finance Documents and the Lenders are, subject to and upon the terms and conditions of the Finance Documents, under an obligation to make further advances.

## **Part 2**

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

- 1 As a continuing security for the payment or discharge of the Secured Liabilities, the Company with full title guarantee (and in respect of any charged Property situated in Scotland, absolute warrandice):
  - 1.1 charged to the Security Trustee (as trustee for the Beneficiaries) by way of first legal mortgage all its Properties listed in Schedule 2 (*Properties currently owned*) to the Security Agreement other than the Scottish Properties;
  - 1.2 charged to the Security Trustee (as trustee for the Beneficiaries), by way of first fixed charge, all its:
    - 1.2.1 Properties acquired by it after the date of the Security Agreements (other than any Scottish Property);
    - 1.2.2 Property Interests;
    - 1.2.3 Equipment;
    - 1.2.4 Securities;
    - 1.2.5 Securities System Rights
    - 1.2.6 Intellectual Property;
    - 1.2.7 Insurance Policies other than Key-man policies;
    - 1.2.8 Debts;
    - 1.2.9 Accounts;

- 1.2.10 Pension Fund Interests;
- 1.2.11 Goodwill and Uncalled Capital; and
- 1.2.12 Other Rights.
- 1.3 assigned to the Security Trustee (as trustee for the Beneficiaries), the benefit of the Assigned Agreements to which it is a party or an addressee and any claims arising under any of the same, and the benefit of any guarantee or security for the performance of the Assigned Agreements; and
- 1.4 charged to the Security Trustee (as trustee for the Beneficiaries), by way of first floating charge, all of its undertaking, property, assets and rights at any time not effectively mortgaged, charged or assigned pursuant to Clauses 3.1.1 to 3.1.3 of the Security Agreement (and referred to in paragraphs 1.1. to 1.3 above) inclusive but specifically including within the floating charge created the whole of its property, assets and undertakings situated in Scotland or otherwise governed by Scots law.
- 2 There is excluded from the charge created by Clause 3.1.1, 3.1.2.1 and Clause 3.1.2.2 (*Charging clause*) of the Security Agreement, and from the operation of Clause 4.2 (*Disposal restriction*) of the Security Agreement, any leasehold property held by the Company under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Company from creating any charge over its leasehold interest in that property (each an “**Excluded Property**”) until the relevant condition or waiver has been satisfied or obtained.
- 3 For each Excluded Property except to the extent that such Excluded Property is also a Short Leasehold Property, the Company undertook to apply for the relevant consent or waiver of prohibition or conditions within five Business Days of the date of the Security Agreement and to use all reasonable endeavours to obtain that consent or waiver of prohibition as soon as possible.
- 4 Immediately upon receipt of the relevant waiver or consent, the relevant formerly Excluded Property stands charged to the Security Trustee (as trustee for the Beneficiaries) under Clause 3.1.1, 3.1.2.1 or Clause 3.1.2.2 (*Charging clause*) of the Security Agreement as the case may be and shall no longer be excluded from the operation of Clause 4.2 (*Disposal Restriction*) of the Security Agreement. If required by the Security Trustee at any time following receipt of that waiver or consent, the Company will execute a valid fixed charge in such form as the Security Trustee shall require.
- 5 If the Security Trustee considers in good faith any Charged Property to be in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy, the floating charge created by the Security Agreement shall be crystallised into a fixed charge by notice in writing from the Security Trustee to the Company and such crystallisation shall take effect over the Floating Charge Property specified in such notice.
- 6 If:
- 6.1 An Event of Default (as defined in the Facilities Agreement) has occurred; or

- 6.2 the Company creates or attempts to create a Security Interest (other than a Permitted Security) or any trust in favour of another person over all or any of its assets or disposes or attempts to dispose of all or any of its assets other than in the ordinary course of its business or as permitted under the Facilities Agreement; or
  - 6.3 the members of the Company convene to consider a resolution to voluntarily wind up the Company; or
  - 6.4 the Company is presented with a petition for the compulsory winding up of the Company (save for any petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 business days); or
  - 6.5 if an administrator is appointed or the Security Trustee receives notice of an intention to appoint an administrator,
- the floating charge created by the Company under the Security Agreement will automatically and immediately (without notice) be converted into a fixed charge over the Floating Charge Property.
- 7 Any asset acquired by the Company after any crystallisation of the floating charge created under the Security Agreement which but for such crystallisation would be subject to a floating charge shall, (unless the Security Trustee confirms in writing to the contrary) be charged to the Security Trustee (as trustee for the Beneficiaries) by way of first fixed charge.

### **Part 3**

#### **Other restrictions**

- 1 The Company covenanted with the Security Trustee that the Company will not at any time during the Security Period, except with the prior written consent of the Security Trustee or in accordance with the terms of the Facilities Agreement:
  - 1.1 create or purport to create or permit to subsist any Security Interest other than Permitted Security on or in relation to the Charged Property other than the Security Agreement;
  - 1.2 sell, assign, transfer, lease, licence, share occupation of, part with possession of or otherwise dispose of (or purport to sell, assign, transfer, lease, licence, share occupation of, part with possession of or otherwise dispose of) all or any part of the Charged Property or of the equity of redemption of any such Charged Property or of the equity of redemption of any such Charged Property or any interest in any such Charged Property, other than a Permitted Disposal; or
  - 1.3 create or grant (or purport to create or grant) any interest in the Charged Property *in favour of a third party (other than Permitted Security)*.
- 2 In respect of any Property or part of or interest in any Property title to which is registered at the Land Registry the Company consented to the entry of the following restriction on the register of its title to such Property:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of The Royal Bank of Scotland PLC referred to in the charges register”.



- 3       The Company shall not except with the prior written consent of the Security Trustee or in accordance with the terms of the Finance Documents, sell, factor, discount, release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Debts save as expressly provided in the Security Agreement.
- 4       After the security constituted by the Security Agreement becomes enforceable, the Company shall comply with any notice served by the Security Trustee on the Company prohibiting the Company from withdrawing all or any monies from time to time standing to the credit of its Accounts with any the Security Trustee, any financial institution or other person, except with the prior written consent of the Security Trustee.
- 5       After the security constituted by the Security Agreement becomes enforceable, if called upon so to do by the Security Trustee (acting reasonably), the Company shall execute a legal assignment of the Debts to the Security Trustee (as trustee for the Beneficiaries) in such terms as the Security Trustee may require and give notice thereof to the debtors from whom the Debts are due, owing or incurred.
- 6       Any release, discharge or settlement between the Company and the Security Trustee is deemed conditional upon no payment or security received in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and in the event of any such avoidance or reduction or order for refund the Security Trustee is entitled to recover the value or amount of such security or payment from the Company as if such settlement, discharge or release had not occurred and the Company agreed with the Security Trustee accordingly and charged the Charged Property and the proceeds of sale thereof with any such liability, whether actual or contingent.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04450369

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED THE 15th MARCH 2005 AND CREATED BY CASTLEBECK GROUP LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM ANY PRINCIPAL DEBTOR TO THE BENEFICIARIES ON ANY ACCOUNT WHATSOEVER 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 22nd MARCH 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 24th MARCH 2005.

*Pangela*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES