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CHFP025

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in black type, or  
bold block lettering

\*insert full name  
of Company

## COMPANIES FORM No. 395

### 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

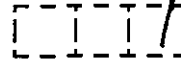
To the Registrar of Companies  
(Address overleaf - Note 6)



131796/10.  
**395**

For official use

Company number



4530146

Name of company

\* West End Quay (Commercial) Limited (the "Chargor")

Date of creation of the charge

29 November 2002

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

A debenture incorporating Fixed and Floating Charges dated 29 November 2002 ("the Debenture") between the Chargor and The Development Bank of Singapore Ltd ("the Security Trustee").

Amount secured by the mortgage or charge

++See Part II of the attached Schedule.

See definitions contained in Part 1 of the attached Schedule.

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

The Development Bank of Singapore Ltd, 7th Floor, Finsbury Circus House,  
12-15 Finsbury Circus, London as Security Trustee.

Postcode EC2M 7BT

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

Baker & McKenzie  
100 New Bridge Street  
London  
EC4V 6JA

IWJ/CML/SEF 1639876

Time critical reference

For official Use  
Mortgage Section

| Post room



See Part III of the attached Schedule.

See definitions contained in Part 1 of the attached Schedule.

NB. The attached Schedule contains covenants by and restrictions on the Chargor which protect and further define the charges and which must be read as part of the charges created.

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Particulars as to commission allowance or discount (note 3)

Nil

Signed *Barbara McKenzie*

Date 11 December 2002

On behalf of ~~[company]~~ (mortgagee/~~charges~~) †

**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 TO FORM 395 FOR DEBENTURE INCORPORATING FIXED AND  
FLOATING CHARGES**

**SCHEDULE**

**PART I**

**DEFINITIONS**

- “Accounts”** means the General Account, the Deposit Account and the Collateral Account;
- “Advance”** means a Tranche B Advance, a Tranche C Advance or the Tranche E Advance;
- “Agent”** means The Development Bank of Singapore Ltd acting as agent for the Lenders or any successor agent appointed under Clause 20 of the Facilities Agreement (*The Finance Parties*);
- “Arrangement Fee Letter”** means a letter of even date with the Facilities Agreement containing details of the arrangement fee referred to in Clause 13.2 (Arrangement Fee) of the Facilities Agreement;
- “Arranger”** means The Development Bank of Singapore Ltd;
- “Bank Guarantee”** means a bank guarantee issued or to be issued by the Issuing Bank pursuant to the provisions of the Facilities Agreement and substantially in the form set out in Schedule 8 (*Form of Bank Guarantee*) of the Facilities Agreement;
- “Bond”** means the bond in respect of Section 106 Costs up to £1,065,000 issued or to be issued by the Issuing Bank on behalf of the Borrower pursuant to the provisions of the Facilities Agreement and substantially in the form set out in Schedule 7 (*Form of Bond*) of the Facilities Agreement;
- “Borrower”** means West End Quay Limited a company incorporated in England (Registered number: 3918918) whose registered office is at Bayfordbury, Lower Hatfield Road, Hertford SG13 8EE;
- “Chargor”** means West End Quay (Commercial) Limited, a company incorporated in England (registered number 4530146) with its registered office at Bayfordbury, Lower Hatfield Road, Hertford, Herts SG13 8EE;
- “Chattels”** means (a) the equipment and/or goods specified in Schedule 4 (*Equipment*) (if any) and (b) all other chattels, plant, machinery, goods and other equipment now or at any time in the future owned by the Chargor and its interest in any chattels, plant, machinery, goods and other equipment in its possession, together with all its rights in respect thereof

and the benefit of all warranties and maintenance contracts, and including any chattels, plant, machinery, goods or other equipment which is hired, leased or rented by the Chargor to any other person together in such cases with the benefit of the related hiring, leasing or rental contract and any guarantee, indemnity or other security for the performance of the obligations of any person under or in respect of such contract (but excluding chattels, plant, machinery, goods and other equipment for the time being forming part of the Chargor's stock-in-trade or work-in-progress or within the definition of Real Property);

**"Collateral Account"**

means the account held with the Agent and charged in favour of the Security Trustee referred to in Clause 9.1(c) (*Designation of Accounts*) of the Facilities Agreement;

**"Commitment"**

means, in relation to each Lender, the amount indicated in respect of each Facility in Schedule 1 (*The Lenders*) of the Facilities Agreement or, where applicable, in the schedule to a Substitution Certificate, as reduced by its Participation in Utilisations or otherwise in accordance with the Facilities Agreement, being the maximum amount from time to time which that Lender is committed to make available by way of advances or indemnity under the Facilities;

**"Contingent Liability"**

means, at any time:

- (a) in relation to the Issuing Bank, the Bond and each Bank Guarantee, the maximum actual and/or contingent liability of the Issuing Bank under the Bond and each Bank Guarantee less the amount standing to the credit of the Collateral Account in each case, at that time and as determined by the Issuing Bank; or
- (b) in relation to a Lender, the Bond and each Bank Guarantee, the maximum actual and/or contingent liability of that Lender in connection with the Bond and each Bank Guarantee at that time as a result of the obligations assumed by it under paragraph 4(b) of Schedule 6 (*Provisions relating to the Bond and the Bank Guarantees*) of the Facilities Agreement less the proportion of the amount standing to the credit of the Collateral Account equal to the proportion of that Lender's Participation in the Facilities Agreement;

**"Contracts"**

means the documents listed in Schedule 2 (*Contracts*) of the Facilities Agreement (if any) including all enclosures, amendments and supplements thereto made with any consent required under the Charge Deed or the Facilities Agreement and all benefits thereof including, without limitation the following:

- (i) the right to receive any and all monies due or to become due to the Chargor under or pursuant to the Contracts;
- (ii) all claims in respect of any breach of the Contracts;

- (iii) the right (but not the obligation) of the Chargor to perform and to compel performance of the Contracts; and
- (iv) any right of the Chargor to rescind or otherwise terminate the Contracts;

**“Contractor”** means:

- (a) a firm or company of building contractors as may be appointed by the Borrower; or
- (b) a firm or company of building contractors as may be appointed by a firm or company of building contractors referred to in paragraph (a) above,

and, in the case of a Main Contractor, with the approval of the Majority Lenders (such approval not to be unreasonably withheld or delayed;

**“Debtor”** means any person who is liable (whether as principal debtor or as surety and whether actually or contingently) to pay or discharge a Debt;

**“Debts”** means all book and other debts and monetary claims including bank deposits and credit balances (whatever called) with any bank or financial institution (including, without limitation, any Finance Party), whether arising under contract or in any other manner and whether originally owing to the Chargor or purchased or otherwise acquired by it, and all choses in action now or at any time in the future due or owing to the Chargor together with the full benefit of all rights and remedies relating thereto (including, without limitation, any negotiable or non-negotiable instruments, guarantees, indemnities, debentures, liens, legal and equitable charges, reservations of title, rights of tracing and all other rights or remedies of any kind in respect of any of the foregoing) including (to the extent not subject to an effective assignment thereunder) any Rental Income;

**“Deeds of Priorities”** means the Frogmore Deed of Priorities and the Rothschild Deed of Priorities;

**“Deposit Account”** means the account held with the Agent or, with the consent of the Agent, such consent not to be unreasonably withheld, The Development Bank of Singapore Ltd, The Governor and Company of the Bank of Scotland or Overseas Union Bank Limited, and, in each such case, charged in favour of the Security Trustee and, in each such case, as referred to in Clause 9.1(b) of the Facilities Agreement (*Designation of Accounts*);

**“Development”** means the development of the Property to comprise, inter alia, the construction of three towers comprising approximately 450 apartments, offices, retail units and an underground car park as described in, and in accordance with, the Specifications;

<b>“Encumbrance”</b>	means any mortgage, charge, pledge, hypothecation, lien, encumbrance or other security interest or any other arrangement having the effect of conferring security, including a conditional sale, hire purchase or lease agreement or other title retention arrangement;
<b>“Event of Default”</b>	means any event or circumstance specified as such in Clause 17.1 ( <i>Events of Default</i> ) of the Facilities Agreement;
<b>“Facilities Agreement”</b>	means the amended and restated agreement dated 4 May 2000 entered into by the; Borrower the Arranger; the Lenders; the Issuing Bank; the Agent; and the Security Trustee;
<b>“Finance Documents”</b>	means the Facilities Agreement, each of the Security Documents, the Arrangement Fee Letter, the Management Fee Letter, each Substitution Certificate, the Charge Deeds of Priorities and any other document designated as such by the Agent and the Borrower;
<b>“Finance Parties”</b>	means the Lenders, the Agent, the Security Trustee, the Arranger and the Issuing Bank;
<b>“Frogmore Deed of Priorities”</b>	means the deed of priorities dated on or about the date of the Facilities Agreement made between Frogmore Developments Limited, the Security Trustee and the Borrower;
<b>“General Account”</b>	means the account held with the Agent and charged in favour of the Security Trustee referred to in Clause 9.1(a) ( <i>Designation of Accounts</i> ) of the Facilities Agreement;
<b>“Guarantee”</b>	means the guarantee dated on or about the date of the Charge Deed and made by the Chargor in favour of the Security Trustee;
<b>“Gross Sale Proceeds”</b>	means the consideration received by any member of the Group in respect of the disposal to any person who is not a member of the Group of any Unit, including any consideration received in connection with the grant of any leasehold title to that Unit to any person;
<b>“Group”</b>	means, at any time, the group which comprises: <ul style="list-style-type: none"> <li>(a) the Borrower; and</li> <li>(b) any Subsidiaries of the Borrower;</li> </ul>
<b>“Hedging Arrangements”</b>	means any interest hedging arrangements entered into by the Borrower in connection with, or otherwise relating to, interest payable under the Facilities Agreement;
<b>“Holding Company”</b>	in relation to any company, means any other company of which the first mentioned company is a Subsidiary;

- “Insurances”** means all contracts and policies of insurance of any kind which are from time to time taken out by or on behalf of the Chargor or (to the extent of such interest) in which the Chargor has an interest;
- “Intellectual Property”** means:
- (a) the intellectual property rights specified in Schedule 6 (*Intellectual Property*) of the Charge Deed (if any); and
  - (b) all other rights in any intellectual property or similar rights now or at any time in the future belonging to the Chargor including (without limitation) patents, trade marks, service marks, designs, utility models, copyrights, design rights, topographical rights, computer programs; applications for registration of and the right to apply for, any of the foregoing in any part of the world, improvements, prolongations and extensions of any of the foregoing, moral rights, inventions, confidential information, trade secrets, know-how and rights of a similar nature arising or subsisting anywhere in the world; whether registered or unregistered,
- and the benefit of all licences of any of the foregoing granted to or by the Chargor together with all fees, royalties or other rights derived from any of the foregoing;
- “Issuing Bank”** means The Development Bank of Singapore Ltd;
- “Lease Document”** means an Agreement for Lease or an Occupational Lease;
- “Lender”** means:
- (a) each bank or other financial institution listed in Schedule 1 (The Lenders) of the Facilities Agreement;
  - (b) each New Lender; and
  - (c) where the context permits, the Issuing Bank
- “Majority Lenders”** means a Lender or Lenders:
- (a) at any time when a Utilisation is outstanding, whose aggregate Participations in the Total Outstandings are at least 66.6% of the Total Outstandings; or
  - (b) at any time when no Utilisation is outstanding, whose aggregate Commitments are at least 66.6% of all the Commitments; or
  - (c) at any time when (a) above does not apply and the Facilities have been cancelled or terminated, whose Commitments immediately before such cancellation or termination were at least 66.6% of all the Commitments;

<b>“Main Contractor”</b>	means such of the Contractors as are appointed in accordance with <u>paragraph 1(c) of Part II of Schedule 2 (Conditions Precedent)</u> of the Facilities Agreement, or otherwise designated as such by the Agent and the Borrower from time to time;
<b>“Main Subcontractors”</b>	means such persons as are appointed in accordance with <u>paragraph 1(c) of Part II of Schedule 2 (Conditions Precedent)</u> of the Facilities Agreement, or otherwise as designated by the Agent and the Borrower from time to time;
<b>“Management Fee Letter”</b>	means a letter of even date with the Facilities Agreement containing details of the management fee referred to in Clause 13.3 ( <i>Management Fee</i> ) of the Facilities Agreement;
<b>“Net Sale Proceeds”</b>	means, in respect of any Unit, the Gross Sale Proceeds in respect of a disposal thereof (which proceeds shall also include consideration received in respect of the disposal to any person who is not a member of the Group of any Unit by grant of leasehold title to that Unit) net of all Taxes applicable on, or to any gain resulting from, the disposal and of all reasonable costs, fees and expenses incurred by members of the Group in arranging and effecting that disposal including any amounts payable in relation to such Unit by the Borrower to the British Waterways Board;
<b>“Occupational Lease”</b>	means any occupational lease or licence or other right of occupation (excluding pursuant to a Trade Contract) to which the Property may be subject from time to time;
<b>“Occupational Tenant”</b>	means any party to an Occupational Lease that takes the benefit of any occupational lease or licence or other right of occupation granted under such Occupational Lease;
<b>“Participation”</b>	means in relation to each Lender: <ul style="list-style-type: none"> <li>(a) in respect of an amount owing by the Borrower thereunder, the portion of that amount which is owing to that Lender;</li> <li>(b) in respect of a Utilisation under Tranche A or Tranche D, the portion of that amount indemnified by that Lender; and</li> <li>(c) in respect of a proposed Utilisation, the portion of that Utilisation which is to be made available by that Lender (in the case of the Tranche A Facility or the Tranche D Facility by way of indemnity in favour of the Issuing Bank);</li> </ul>



**“Real Property”** means:

- (a) the freehold and/or leasehold property specified in Schedule 1 (*Real Property*) of the Charge Deed; and
- (b) all other freehold, leasehold and other immovable property now or at any time in the future belonging to the Chargor,

and all buildings, fixtures (including trade and tenant’s fixtures), fixed plant and machinery from time to time on any such property, all proceeds of sale thereof and the benefit of any covenants for title in respect thereof and all Encumbrances, options, contractual rights, estates and interests over land both present and future;

**“Receiver”** means each and any receiver, manager, receiver and manager or other similar officer appointed by the Security Trustee in respect of the security created by or pursuant to the Charge Deed;

**“Related Rights”** means:

- (a) all rights, benefits and advantages of any kind deriving from or incidental to any Securities and all dividends and interest paid or payable in relation thereto;
- (b) all shares, securities, rights, monies or other property accruing, offered or issued at any time by way of redemption, conversion, exchange, substitution, bonus, preference, option or otherwise in respect thereof; and
- (c) the certificates representing any of the foregoing;

**“Rental  
Income”**

means the aggregate of all amounts paid to or for the benefit or account of the Borrower in connection with the letting of the Property or any part thereof, including gross rents, licence fees and other moneys payable under any Lease Documents together with (without duplication or limiting the generality of the foregoing) each of the following amounts so paid:

- (a) rent (and any amount equivalent thereto) payable whether it is variable or not and however or whenever it is described, reserved or made payable;
- (b) any increase of rent payable by virtue of an offer falling within the proviso of Section 3(1) of the Landlord and Tenant Act 1927;
- (c) any rent payable by virtue of a determination made by the Court under Section 24(a) of the Landlord and Tenant Act 1954;
- (d) any sum lawfully appropriated from any deposit held as security for performance of any tenant's obligations;
- (e) any other moneys payable in respect of occupation and/or usage of the Property and every fixture and fitting therein and any and every fixture thereon for display or advertisement, on licence or otherwise;
- (f) any profits awarded or agreed to be payable as a result of any proceedings taken or claim made for the same;
- (g) any damages, compensation, settlement or expenses for or representing loss of rent or interest thereon awarded or agreed to be payable as a result of any proceedings taken or claim made for the same net of any costs, fees and expenses paid (and which have not been reimbursed to, and which are not recoverable by, a Borrower from any party) in furtherance of such proceedings so taken or claim so made;
- (h) any moneys payable under any policy of insurance in respect of loss of rent or interest thereon;
- (i) any sum payable or the value of any consideration to be given by or on behalf of a tenant for the surrender or variation of any Occupational Lease or occupancy agreement;
- (j) any sum payable by any guarantor of any Occupational Tenant under any Occupational Lease otherwise than in reimbursement of expenses of fitting out or alteration; and
- (k) any interest payable on any sum referred to above and any damages, compensation or settlement payable in respect of the same;

<b>"Rothschild Deed of Priorities"</b>	means the deed of priorities dated on or about the date thereof made between N.M. Rothschild & Sons Ltd, the Security Trustee and Rialto Homes plc;
<b>"Sales Deposit"</b>	means a non-refundable deposit provided, on exchange of contracts, by a purchaser of a Unit
<b>"Secured Indebtedness"</b>	means all monies, obligations and liabilities of any kind now or at any time in the future due, owing, incurred or payable (whether actually or contingently) by the Chargor under the Guarantee or under or pursuant to any Finance Document to which the Chargor is a party (whether on account of principal, interest, fees, expenses, indemnity payments, losses, damages or otherwise) and all other monies thereby agreed to be paid;
<b>"Securities"</b>	means: <ul style="list-style-type: none"> <li>(a) the securities specified in Schedule 5 (<i>Securities</i>) of the Charge Deed (if any); and</li> <li>(b) all other stocks, shares, debentures, bonds, notes, wan-ants and other securities of any kind (including loan capital) of any person now or at any time in the future beneficially owned by the Chargor or in which the Chargor has an interest,</li> </ul> and all rights of any kind which the Chargor now has or at any time in the future acquires as against any clearance or settlement system or any custodian in respect of any such securities;
<b>"Security Assets"</b>	means all of the property, assets and undertaking of the Chargor, present and future, expressed to be assigned or charged to the Security Trustee by or pursuant to the Charge Deed;
<b>"Security Documents"</b>	means the documents referred to in paragraphs 6 (a) - (d) ( <i>Security</i> ) of Part I of Schedule 2 ( <i>Conditions Precedent</i> ) of the Facilities Agreement and any other document executed from time to time by any person as a further guarantee of or security for all or any part of the Borrower's obligations under any Finance Document
<b>"Security Trustee"</b>	means the Development bank of Singapore Limited acting on its own behalf and as agent and trustee for the Agent and the Lenders; and the expression "Lenders" shall have the meaning ascribed to it in the Facilities Agreement and shall include the Issuing Bank and the Arranger in their respective capacity as such

<b>"Subsidiary"</b>	means: <ul style="list-style-type: none"> <li>(a) a subsidiary as defined in section 736 of the Companies Act 1985;</li> <li>(b) a subsidiary undertaking as defined in section 258 of that Act; or</li> <li>(c) (whether or not falling within (a) or (b) above) in relation to any company, any other company or other entity which is directly or indirectly under the control of the first-mentioned company or (whether or not so controlled) treated as a subsidiary in the financial statements of that company from time to time,</li> </ul> <p>and for this purpose "<b>control</b>" of a company or entity means ownership of more than 50% of the voting share capital or equivalent right of ownership of such company or entity or of its Holding Company or power to direct its affairs or power to control the composition of its board of directors or equivalent body, in each case, whether by contract or otherwise;</p>
<b>"Substitution Certificate"</b>	means a document substantially in the form set out in Schedule 5 ( <i>Form of Substitution Certificate</i> ) of the Facilities Agreement;
<b>"Total Outstandings"</b>	means the aggregate of the Tranche A Outstanding Amount, the Tranche B Outstandings, Tranche C Outstandings, the Tranche D Outstanding Amount and the Tranche E Outstandings;
<b>"Trade Contract"</b>	means a contract entered into or to be entered into between (i) the Borrower and a Main Contractor or (ii) a Main Contractor and a Main Subcontractor, including all documents referred to therein;
<b>"Tranche A Utilisation"</b>	means the issuance of the Bond under the Tranche A Facility;
<b>"Tranche A Outstanding Amount"</b>	means the Contingent Liability from time to time of the Issuing Bank in respect of the Tranche A Utilisation;
<b>"Tranche B Advance"</b>	means the drawing of the Advance under the Tranche B Facility;
<b>"Tranche B Facility"</b>	means the cash advance facility to be made available pursuant to Clause 2.1(a)(ii) (Principal Amount and Purpose) of the Facilities Agreement;
<b>"Tranche B Outstandings"</b>	means the principal amount outstanding from time to time of the Tranche B Advance;
<b>"Tranche C Advance"</b>	means the drawing of an Advance under the Tranche C Facility;

<b>"Tranche C Facility"</b>	means the cash advances facility to be made available pursuant to Clause 2.1(a)(iii) ( <i>Principal Amount and Purpose</i> ) of the Facilities Agreement;
<b>"Tranche C Outstandings"</b>	means the principal amount outstanding from time to time of the Tranche C Advances;
<b>"Tranche D Outstanding Amount"</b>	means the Contingent Liability from time to time of the Issuing Bank in respect of the Tranche D Utilisations;
<b>"Tranche D Utilisation"</b>	means the issuance of a Bank Guarantee under the Tranche D Facility;
<b>"Tranche E Advance"</b>	means the drawing of the Advance under the Tranche E Facility;
<b>"Tranche E Facility"</b>	means the cash advance facility to be made available pursuant to Clause 2.1(a)(v) ( <i>Principal Amount and Purpose</i> ) of the Facilities Agreement;
<b>"Tranche E Outstandings"</b>	means the principal amount outstanding from time to time of the Tranche E Advance;
<b>"Unit"</b>	means each unit comprised within the Development, whether residential, retail, office or commercial as separately identified and valued in the Initial Valuation;
<b>"Utilisation"</b>	means the Tranche A Utilisation, a Tranche B Advance, a Tranche C Advance, a Tranche D Utilisation or the Tranche E Advance;

## PART II

### AMOUNT SECURED BY MORTGAGE OR CHARGE

By Clause 2.1 (*Grant of Security*) of the Charge Deed the Chargor with full title guarantee and without the benefit of section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 as continuing security for the due and punctual payment and discharge of the Secured Indebtedness and the due and punctual observance and performance by the Chargor of all other obligations of the Chargor contained in each of the Finance Documents to which it is a party.

By Clause 11.1 (*Expenses*) of the Charge Deed the Chargor shall immediately on written demand pay or reimburse to the Security Trustee and the other Finance Parties (or as the case may be) the Receiver:

- (a) Execution: all reasonable costs, charges and expenses (including legal fees on a full indemnity basis and all other out of pocket expenses and any applicable value added tax or similar tax) properly incurred by the Security Trustee or the Agent or the Receiver in connection with the preparation, execution and registration of the Charge Deed and any other documentation required in connection with the Charge Deed and any amendment to or extension of, or

any inspection, calculation, approval, consent or waiver to be made or given in connection with, the Charge Deed;

- (b) Rights and Remedies: all costs, charges and expenses (including legal fees on a full indemnity basis and all other out of pocket expenses and any applicable value added tax or similar tax) incurred by the Security Trustee or any other Finance Party or the Receiver in exercising any of its or their rights or powers under the Charge Deed or in suing for or seeking to recover any sums due or otherwise preserving or enforcing its or their rights, powers and remedies under the Charge Deed or in connection with the preservation or attempted preservation of the Security Assets or in defending any claims brought against any of them in respect of the Charge Deed or the Chargor's interest in the Security Assets or in releasing or reassigning the Charge Deed upon payment of all monies secured by the Charge Deed: and

- (c) Receiver: all remuneration payable to the Receiver,

and, until payment of the same in full, all such costs, charges and expenses and remuneration shall be secured by the Charge Deed.

By Clause 11.2 (*Taxes and Registration Fees*) of the Charge Deed the Chargor shall pay when due all present and future stamp and other similar duties and taxes and all notarial, registration, recording and other similar fees which may be payable in respect of the Charge Deed and any documentation required in connection with the Charge Deed and shall indemnify the Security Trustee and the other Finance Parties against all liabilities, costs and expenses which may result from any delay or default in paying such duties, taxes or fees (unless caused by the relevant person's negligence or wilful default in paying such fees).

By Clause 12.1 (*General Indemnity*) of the Charge Deed the Chargor shall indemnify the Security Trustee and the other Finance Parties and any Receiver (and any attorney, delegate or other person appointed under the Charge Deed by either of them) from and against all claims, actions, losses, liabilities, damages, costs and expenses incurred by it or them as a result of or arising out of or in connection with:

- (a) Performance: the occurrence of any Event of Default, or any failure by the Chargor to make a payment or perform any obligation in accordance with the Charge Deed; or
- (b) Security Assets: the Security Assets or the use or occupation thereof by any person; or
- (c) Powers: the execution or purported execution of any powers, authorities and discretions conferred on it pursuant to the Charge Deed or in respect of any matter or thing done or omitted in relation to the Security Assets,

unless directly resulting from the gross negligence or wilful default of the indemnified person.

By Clause 12.4 (*Payment and Security*) of the Charge Deed the Security Trustee and any Receiver may retain and pay out of any money in the Security Trustee's or (as the case may

be) such Receiver's hands all sums necessary to effect the payments, obligations and indemnities contained in Clause 11 (*Costs, Charges and Expenses*) of the Charge Deed and Clause 12 (*Indemnities and Currencies*) of the Charge Deed and all sums payable by the Chargor under Clause 11 and Clause 12 shall form part of the monies thereby secured.

### PART III

#### **PARTICULARS OF ALL THE PROPERTY MORTGAGE OR CHARGED**

By Clause 2.1.1 (*Grant of Charge*) of the Charge Deed charges and agrees to charge to the Security Trustee:

- (a) by way of legal mortgage:
  - (i) Present Real Property: the Real Property specified in Schedule 1; and
  - (ii) Future Real Property: all Real Property (except any Security Assets specified in paragraph (i) (Present Real Property) above) now or thereafter belonging to it;
- (b) by way of first fixed charge:
  - (i) Chattels: the Chattels;
  - (ii) Debts: the Debts;
  - (iii) Securities: the Securities and Related Rights;
  - (iv) Intellectual Property: the Intellectual Property (which, to the extent that it consists of copyrights and patents, shall be assigned by way of mortgage);
  - (v) Insurance: (to the extent not subject to an effective assignment under Clause 2.3 (*Assignment*) of the Charge Deed, all monies from time to time payable to the Chargor under or pursuant to the Insurances and all benefits in respect thereof, including all claims and returns of premiums, and any monies for the time being standing to the credit of the account referred to in Clause 8.4(i) (*Application of Monies*) of the Share Mortgage;
  - (vi) Licences: the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held in connection with the Chargor's business or the use of any of its assets, and the right to all compensation which may at any time become payable to it in respect thereof;
  - (vii) Agreements: (to the extent not subject to an effective assignment under Clause 2.3 (*Assignment*) of the Charge Deed, all of the Chargor's rights and benefits under any distributorship, agency, partnership, joint venture or similar agreements, any letters of credit issued in its favour and all bills, of exchange and other negotiable instruments held by it;
  - (viii) Pension Fund: any beneficial interest, claim or entitlement of the Chargor in any pension or similar fund;

- (ix) Records: all books of account, registers, records, vouchers, computer software, computer printouts and other documents relating in any way to the business of the Chargor;
- (x) Goodwill: the goodwill of the Chargor and its uncalled and called but unpaid capital and premiums now or at any time thereafter in existence and future calls (whether made by the directors of the Chargor or by a receiver, administrator or liquidator); and
- (xi) Preferences: all amounts realised and all property recovered pursuant to any order of the court under sections 238, 239 or 244 of the Insolvency Act 1986 or as a result of any floating charge being invalid under section 245 of that Act.

By Clause 2.1.2 (*Floating Charge*) of the Charge Deed, by way of first floating charge, the whole of the Chargor's undertaking and all its present and future property and assets (wherever situated), other than any property or assets from time to time or for the time being effectively charged by way of first fixed charge to the Security Trustee by Clause 2.1 (*Grant of Charge*) of the Charge Deed and Clause 2.2 (*Grant or Assignment*) of the Charge Deed.

By Clause 2.2 (*Grant of Assignment*) of the Charge Deed, the Chargor assigns and agrees to assign to the Security Trustee by way of security all of the Chargor's rights, title, interest and benefit in and to:

- (a) the Contracts;
- (b) Insurances;
- (c) all Rental Income;
- (d) any guarantee of Rental Income contained in or relating to any Agreement for Lease or Occupational Lease;
- (e) all Net Sale Proceeds;
- (f) all its rights under any Hedging Arrangement; and
- (g) any loans made by it to the Borrower.

By Clause 8.1(c) (*Deposit of Documents*) of the Charge Deed, the Chargor has undertaken to deposit with the Security Trustee or to its order all deeds, certificates and documents (including original policies of insurance) which constitute or evidence title to any Security Assets (such deposit to be made immediately upon the execution of the Charge Deed or, if later, when the Chargor obtains possession of such deeds, certificates or documents) such documents of title to be released from deposit where so required by the Facilities Agreement (each a "**Document of Title**").

By Clause 3.1 (*Continuing Security*) of the Charge Deed the Charge Deed shall be a continuing security and shall remain in full force and effect until the Secured Indebtedness has been paid



in full and none of the Finance Parties has any obligation or liability (actual or contingent) under any of the Finance Documents, notwithstanding the insolvency or liquidation or any incapacity or change in the constitution or status of the Chargor or any other person or any intermediate settlement of account or other matter whatsoever.

By Clause 3.2 (*Independent Security*) of the Charge Deed, the Charge Deed is in addition to, and independent of, any Encumbrance, guarantee or other security or right or remedy now or at any time in the future held by or available to the Security Trustee or any other Finance Party.

By Clause 3.3 (*Crystallisation by Notice*) of the Charge Deed, the Security Trustee may at any time by notice in writing to the Chargor:

- (a) at any time following the occurrence of an Event of Default, in respect of any Security Assets specified in such notice; or
- (b) at any time, in respect of any Security Assets which are, in its opinion, in jeopardy

convert any charge created under the Charge Deed which then operates as a floating charge to a fixed charge.

By Clause 3.4 (*Automatic Crystallisation*) of the Charge Deed, the floating charge thereby created shall, without the need for any act by the Security Trustee, automatically and immediately crystallise and the charge shall operate as a fixed charge:

- (a) All Assets: in respect of all Security Assets which are not for the time being effectively charged to the Security Trustee by way of fixed charge if:
  - (i) an application is made, a petition is presented or any proceeding is commenced for an order, or a meeting is convened to consider a resolution or a resolution is passed, or an order is made, for the winding up, insolvency, administration, reorganisation, reconstruction, dissolution or bankruptcy of the Chargor (except for any such application, petition or proceeding which the Agent (acting on the instructions of the Majority Lenders) is satisfied is frivolous or vexatious);
  - (ii) a liquidator, administrator, administrative receiver, receiver, receiver and manager, trustee or similar officer is appointed in respect of the Chargor or of all or any part of the business, assets or revenues of the Chargor;
  - (iii) any person levies or attempts, purports or proposes to levy execution, distress or any other similar process upon or against all or any material part of the business, assets or revenues of the Chargor;
  - (iv) the Chargor stops or suspends payments to its creditors generally or is unable, is deemed by law to be unable, or admits its inability, to pay its debts as they fall due or ceases to carry on its business;

- (v) the Chargor enters into or seeks to enter into any scheme of arrangement, composition, assignment for the benefit of, or other arrangement with, its creditors or any class of creditors; or
  - (vi) the Chargor reduces or takes any steps to reduce its capital or in anyway limits or restricts calls in respect of its issued but uncalled capital; or
- (b) Specific Assets: in respect of any asset forming part of the Security Assets which is not for the time being effectively charged to the Security Trustee by way of fixed charge if:
- (i) the Chargor deals, or attempts, purports or proposes to deal, with that asset otherwise than in accordance with the Charge Deed save as otherwise permitted by the Facilities Agreement;
  - (ii) any person levies or attempts, purports or proposes to levy, execution, distress or any other similar process in respect of that asset;
  - (iii) any Encumbrance over that asset becomes capable of being enforced or any person enforces, or attempts, purports or proposes to enforce, any Encumbrance over that asset.

By Clause 3.5 (*De-crystallisation*) of the Charge Deed, if the floating charge over any Security Assets becomes fixed in accordance with Clause 3.3 (*Crystallisation by Notice*) of the Charge Deed, or Clause 3.4 (*Automatic Crystallisation*) of the Charge Deed it shall again become a floating charge over those Security Assets if the Security Trustee gives the Chargor a notice in writing to that effect.

By Clause 13.1 (*Further Assurance*) of the Charge Deed, the Chargor shall at any time and from time to time (whether before or after the security created by or pursuant to the Charge Deed shall have become enforceable):

- (a) Execute Documents: execute all further legal or other mortgages, charges or assignments in favour of the Security Trustee or the Finance Parties; and
- (b) Other Action: do all such transfers, assurances, acts and things (and, without limiting the generality of the foregoing, give all notices, orders and directions) in respect of all or any of the undertaking, property, assets and rights both present and future of the Chargor,

which the Security Trustee may require to secure the Secured Indebtedness or to facilitate the realisation of the Security Assets or the exercise of any powers conferred on the Security Trustee or a Receiver or for the purposes of perfecting and completing any assignment of the Security Trustee's rights, benefits or obligations under the Charge Deed.

By Clause 13.3 (*Form of Documents*) of the Charge Deed any instrument which the Chargor is required to execute, or of which the Chargor is required to procure the execution, shall be prepared by or on behalf of the Security Trustee at the cost of the Chargor and shall contain

such clauses as the Security Trustee shall reasonably require, including, but not limited to clauses containing an immediate power of sale without notice and excluding section 93, and the restrictions contained in section 103, of the Law of Property Act 1925.

By Clause 13.4 (*Other Provisions*) of the Charge Deed Clause 13.4 (*Other Provisions*) shall be in addition to and not in substitution for the covenants for further assurance deemed to be included in the Charge Deed by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

#### **PART IV**

#### **COVENANTS AND UNDERTAKINGS**

By Clause 8.1 (*Undertakings Relating to Security Assets Generally*) of the Charge Deed, the Chargor undertakes to the Security Trustee that, throughout the continuation of the Facilities Agreement and so long as any Secured Indebtedness is or may become payable, the Chargor will, unless the Security Trustee otherwise agrees in writing:

- 8.1(a) Encumbrances: not (except under or pursuant to the Charge Deed):
- (i) create or attempt or agree to create or permit to arise or exist any Encumbrance on or affecting the Security Assets or any part of them;  
or
  - (ii) (without limiting the generality of the foregoing) deal in any manner with, create any security or Encumbrance over or allow any other third party rights to arise over or against any bank account of the Chargor or in which the Chargor has an interest (whether with the Security Trustee or any other person) or any part thereof (whether by way of assignment, trust or otherwise);
- 8.1(b) Disposals: not (save as permitted by the Facilities Agreement) sell, assign, transfer, lease, deal with or dispose of the Security Assets or any part thereof or attempt or agree to do so;
- 8.1(e) Overseas Property: in respect of any part of the Security Assets situated outside England and Wales or subject to the laws of any jurisdiction other than England and Wales, execute, or procure that there are executed, such documents and take or procure such steps as are in the opinion of the Security Trustee necessary, desirable or appropriate to create security over such Security Assets in or under the laws of such jurisdiction equivalent or analogous in effect to the security constituted by or pursuant to the Charge Deed (for which purpose the Security Trustee shall be entitled to appoint such advisers (legal and otherwise) as it considers appropriate to prepare any necessary documentation and advise on any necessary procedures to constitute such security in any such jurisdiction and the Chargor shall be responsible for the costs thereof).

By Clause 8.2 (*Undertakings Relating to Real Property*) of the Charge Deed, the Chargor undertakes to the Security Trustee that, throughout the continuation of the Facilities Agreement and so long as any Secured Indebtedness is or may become payable, the Chargor will, unless the Security Trustee otherwise agrees in writing:

- 8.2(e) Registered Land: (save as otherwise permitted by the Facilities Agreement) not permit any person to become registered as proprietor under the Land Registration Acts of any Real Property other than the Chargor or the Security Trustee;
- 8.2(f) Overriding Interests: not create or permit to arise any overriding interest as defined in section 70 of the Land Registration Act 1925;
- 8.2(k) Leases: (save as otherwise permitted by the Facilities Agreement) otherwise than in accordance with Clause 16.3 (*Property Undertaking*) of the Facilities Agreement, not grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Real Property or any part thereof or accept or agree to accept surrenders thereof or permit any person to become entitled to any proprietary right or interest which might affect the value of any Real Property; and (without prejudice to the foregoing) ensure that any such leases granted are for a commercial rack rent;

By Clause 8.3 (*Undertakings Relating to Debts*) of the Charge Deed, the Chargor undertakes to the Security Trustee that, throughout the continuation of the Facilities Agreement and so long as any Secured Indebtedness is or may become payable the Chargor will, unless the Security Trustee otherwise agrees in writing:

- 8.3(a) Debts: (without limiting the generality of Clause 8.1(a) (*Encumbrances*) of the Facilities Agreement and Clause 8.1 (*Disposals*) of the Facilities Agreement ), not sell, discount, factor, charge, pledge or assign to any third person any of the Debts or deal with any of the Debts in any way except by getting in and realising the same (for which purpose the Chargor shall be the agent of the Security Trustee);
- 8.3(d) Legal Assignment: following an Event of Default which is continuing unremedied and unwaived and upon request by the Security Trustee, (and to the extent not already effectively assigned under the Charge Deed) execute a legal assignment of the Debts (or any, or any part of them) to the Security Trustee and give notice thereof in writing to the respective Debtors;
- 8.3(e) No Release: not release any of the Debts save upon a full discharge thereof or otherwise commute the liability of any Debtor (whether by reducing the amount due, extending the time for payment or otherwise) save in the ordinary course of business; and

By Clause 8.4 (*Undertakings Relating to Securities*) of the Charge Deed, the Chargor undertakes to the Security Trustee that, throughout the continuation of the Facilities and so long as any Secured Indebtedness is or may become payable, the Chargor will, unless the Security Trustee otherwise agrees in writing:

- 8.4(g) Registered Holder: except pursuant to paragraph (h) (*Transfer to Security Trustee*) of the Facilities Agreement below, not permit any person other than the Chargor or its nominee, or a clearance or settlement system or custodian acceptable to the Security Trustee, to be registered as the holder of any Securities;
- 8.4(h) Transfer to Security Trustee: upon request by the Security Trustee at any time, permit all or any of the Securities to be registered in or transferred into the name of, or held or registered as held in an account of, the Security Trustee or its nominee; and
- 8.4(i) No Securities Lending: not lend any Securities to any person.

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## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04530146

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE INCORPORATING FIXED AND FLOATING CHARGES DATED THE 29th NOVEMBER 2002 AND CREATED BY WEST END QUAY (COMMERCIAL) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE DEVELOPMENT BANK OF SINGAPORE LTD, AS SECURITY TRUSTEE 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 13th DECEMBER 2002.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 17th DECEMBER 2002.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —