

551230/10

COMPANIES FORM NO. 395

Particulars of a mortgage or charge

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

395

CHFP004

Please do not write in this margin

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

\*Insert full name of Company

Pursuant to section 395 of the Companies Act 1985

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

For official use

6

Company number

04691625

Name of company

\* Oakapple Homes (Scarborough) Limited (the "Company")

Date of creation of the charge

22 June 2007

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

Debenture (the "Debenture")

Amount secured by the mortgage or charge

All monies and liabilities which are at the date of the Debenture or shall at any time thereafter be owing due or incurred (whether on or at any time after demand) to the Lender (as defined below) and any member of the Lender's Group (as defined below) by the Company anywhere and all other liabilities whatsoever of the Company to the Lender or any member of the Lender's Group, present future actual and/or contingent whether owing from the Company solely and whether as principal or surety or from the Company jointly with any other company or companies person or persons and including all interest commission discount or other lawful costs charge and expenses which the Lender or the member of the Lender's Group concerned may in the course of its business charge in respect of any of the matters aforesaid and so that interest shall be computed and compounded according to the usual mode of the Lender or that member of the Lender's Group as well after as before any demand made or judgement obtained under the Debenture provided that no obligation or liability shall be included to the extent that if it were so included the Debenture (or any part of it) would constitute unlawful financial assistance within the meaning of sections 151 and 152 of the Companies Act 1985 (the "Secured Obligations")

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

Davenham Trust Plc (the "Lender")

8 St John Street

Manchester

Postcode

M3 4DU

Presenter's name and address and reference (if any)

Pinsent Masons  
1 Park Row  
Leeds  
LS1 5AB

Ref KS02/626401 07005/RZW  
21310223 2/KS02

Time critical reference

For official Use  
Mortgage Section

Post room

TUESDAY



A25 03/07/2007 648  
COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

See attached Appendix

Please do not  
write in  
this margin

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

01  
95

Nil

A fee of £13 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge  
(See Note 5)

For Davenham Trust Plc

Signed

*Pinset Majors*

Date

*2 July 2007*

On behalf of Chargee

## Notes

†delete as  
appropriate

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal Charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his,
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures 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, DX 33050 Cardiff

**APPENDIX**

**Definitions used in this Form 395 and Appendix -**

<b>"Charged Assets"</b>	means all property and assets from time to time charged by or pursuant to the Debenture
<b>"Charged Shares"</b>	means all shares specified in Schedule 1 of the Debenture, together with all stocks, shares, debentures, bonds, warrants, coupons or other securities and Investments owned by the Company from time to time
<b>"Collections Accounts"</b>	has the meaning ascribed to that term in paragraph 10 1(b)
<b>"Debtor"</b>	means any person who is liable (whether as principal debtor or as surety and whether actually or contingently) to discharge or pay a Receivable,
<b>"Encumbrance"</b>	includes any mortgage, pledge, lien, charge, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security
<b>"Event of Default"</b>	shall have the meaning ascribed thereto in the Finance Agreement
<b>"Finance Agreement"</b>	means the finance agreement dated 19 June 2007 and made between the Company and the Lender pursuant to which the Lender has agreed to make certain facilities available to the Company
<b>"Intellectual Property"</b>	means all legal and/or equitable interests (including, without limitation, the benefit of all licences in any part of the world) of the Company in or relating to registered and unregistered trade marks and service marks, patents, registered designs, utility models, applications for any of the foregoing, trade names, copyrights, design rights, unregistered designs, inventions, confidential information, know-how, registerable business names and any other rights of every kind deriving from or through the exploitation of any of the aforementioned rights of the Company
<b>"Investments"</b>	means shares, certificates of deposits, debentures and other investments as defined in part II of schedule II of the Financial Services and Markets Act 2000
<b>"Lender's Group"</b>	means the Lender, any subsidiary or holding company of the Lender and any subsidiary of any such holding company
<b>"Receivables"</b>	means -  (a) All present and future book and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts recoverable or receivable by the Company from other persons or due or owing to the Company (whether actual or contingent and whether arising under contract or in any other manner whatsoever),  (b) The benefit of all rights and remedies relating to any of the foregoing including, without limitation, claims for damages

and other remedies for non-payment of the same, all entitlements to interest, negotiable instruments, guarantees, indemnities, Encumbrances, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights, and

(c) All proceeds of any of the foregoing

**"Related Rights"**

means, in relation to any Investments or Charged Shares, all dividends, distributions and other income paid or payable on the relevant Investment or Charged Shares (as the case may be), together with (a) all shares or other property derived from the relevant Investment or Charged Shares (as the case may be) and (b) all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to the relevant Investment or Charged Shares (whether by way of conversion, redemption, bonus, preference, option or otherwise)

**"Security Shares"**

means the Charged Shares and the Related Rights accruing to all or any of the Charged Shares

**"Termination Event"**

shall have the meaning ascribed thereto in the Finance Agreement

Short particulars of all property mortgaged or charged

- 1 As a continuing security for the payment of the Secured Obligations the Company has, with full title guarantee, charged in favour of the Lender the following assets which are at any time owned by the Company, or in which the Company is from time to time interested, by way of first fixed charge
  - (a) all estates or interests in any freehold or leasehold property vested in or charged to the Company at the date of the Debenture or at any time thereafter, the buildings and fixtures (including trade fixtures) at any time thereon, all proceeds of sale derived therefrom and the benefit of all covenants given in respect thereof and all licenses to enter upon or use land and the benefit of all other agreements relating to land,
  - (b) all plant, machinery, computers, vehicles, office and other equipment and the benefit of all contracts, licenses and warranties relating to the same,
  - (c) all Investments (as defined therein), together with all Related Rights from time to time accruing thereto,
  - (d) all rights and interests of the Company in, and claims under, the Insurances and all proceeds thereof held by, or written in favour of, the Company or in which the Company is otherwise interested,
  - (e) all its right, title, interest and benefit in and to the Collections Accounts, all monies standing to the credit of the Collections Accounts and all rights of the Company to repayment of any of the foregoing,
  - (f) all monies standing to the credit of the Company from time to time on any and all accounts held with any bank, financial institution, or other person,
  - (g) all Intellectual Property,
  - (h) the benefit of all licences, consents, agreements and authorisations held or utilised by the Company in connection with its business or the use of any of its assets,

- (i) to the extent not assigned at 2 below, all Receivables,
- (j) all the goodwill and uncalled capital of the Company, and
- (k) all the Charged Shares together with all Related Rights from time to time accruing thereto

2 As a continuing security for the payment of the Secured Obligations, the Company has with full title guarantee assigned and agreed to assign absolutely in favour of the Lender all rights, title, interest and benefit of the Company in and to the Receivables

3 As continuing security for the payment of the Secured Obligations the Company has charged with full title guarantee in favour of the Lender by way of first floating charge, all the Company's assets and undertaking whatsoever and wheresoever situated both present and future not effectively charged by way of first fixed charge pursuant to 1 above including, without prejudice to the generality of the foregoing, heritable property and all other property and assets in Scotland

4 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply at all times to the floating charge created pursuant to 3 above

#### 5 **Negative Pledge**

Save as permitted by the terms of the Finance Agreement, the Company has covenanted with the Lender that, during the continuance of the security created by the Debenture, it shall not without the prior written consent of the Lender

5 1 create or permit to subsist any Encumbrance upon any of the Charged Assets (other than a lien arising in the ordinary course of business by operation of law), or

5 2 sell, transfer, lease, lend or otherwise dispose of, whether by a single transaction or a number of transactions and whether related or not, the whole or any part of the Charged Assets (other than any Charged Assets which are the subject of a floating charge (but not any fixed charge or mortgage) on arms length terms in the ordinary course of trading)

#### 6 **Further Assurance**

The Company has covenanted that it will, whenever requested by the Lender and at its own expense, promptly execute such deeds or documents and take any action required by the Lender to perfect and protect the security created (or intended to be created) by the Debenture or to facilitate the realisation thereof or otherwise to enforce the same or exercise any of the rights of the Lender thereunder In particular, but without limitation, the Company has agreed that it will -

6 1 execute a valid legal mortgage in such form as the Lender shall reasonably require of any freehold or leasehold property now or in the future belonging to the Company,

6 2 execute a legal assignment in such form as the Lender may reasonably require over all or any of the Receivables and give notice of such assignment to the relevant Debtors,

6 3 execute a valid fixed charge in such form as the Lender may reasonably require over any asset the subject of the floating charge thereunder, and

6 4 otherwise execute all transfers, assignments, conveyances and assurances whatsoever and give all notices, orders, instructions and directions whatsoever which the Lender may think expedient

#### 7 **Intellectual Property**

The Company has covenanted with the Lender that it will not assign, sever, dispose of, or otherwise part with control of its material Intellectual Property, or create or permit to subsist any Encumbrance thereon, or grant any licence to any person to use the same in any manner which will materially and adversely affect the value of such material Intellectual Property

**8 Deposit of Documents**

The Company has covenanted that it will, unless the Lender otherwise confirms in writing, deposit with the Lender all deeds and documents of title relating to the Charged Assets

**9 Property Acquisitions**

The Company has covenanted that it will -

9 1 notify the Lender forthwith upon the acquisition of any freehold or leasehold property, and

9 2 on demand by the Lender, execute and deliver to the Lender any legal mortgage or, in the case of property situated in Scotland, a standard security, in favour of the Lender of any freehold or leasehold property which becomes vested in it after the date of the Debenture and all fixtures and fittings thereon to secure the payment or discharge of the Secured Obligations, such legal mortgage or standard security to be in such form as the Lender may reasonably require. Any security document required to be executed by the Company pursuant to clause 9 11(b) of the Debenture will be prepared at the cost of the Company and will contain terms and conditions that are no more onerous than those contained in the Debenture. In the case of any leasehold property in relation to which the consent of the landlord in whom the reversion of that lease is vested is required in order for the Company to perform any of its obligations under clause 9 11(b) of the Debenture, the Company shall not be required to perform that particular obligation unless and until it has obtained the landlord's consent (which it shall use its reasonable endeavours to do)

**10 Receivables**

**10 1 Dealings with and realisation of Receivables**

The Company has covenanted that it will -

- (a) Without prejudice to 5 above (*Negative Pledge*) but in addition to the restrictions in that paragraph, not, without the prior written consent of the Lender, sell, assign, charge, factor or discount or in any other manner deal with any of the Receivables,
- (b) Collect all Receivables in the ordinary course of trading as agent for the Lender and immediately upon receipt pay all monies which it may receive in respect of the Receivables into such specially designated account(s) with such bank as the Lender may from time to time direct (such account(s) together with all additions to or renewals or replacements thereof (in whatever currency) being the "**Collections Accounts**") and pending such payment, hold all monies so received upon trust for the Lender,
- (c) At the direction of the Lender, deliver to the bank with which the relevant Collections Account is maintained a notice to the bank, and procure that that bank has signed and delivered to the Lender a letter, in each case in the form required by the Lender, and
- (d) Deal with the Receivables (both collected and uncollected) in accordance with any directions given in writing from time to time by the Lender, and in default of and subject to such directions, in accordance with the Debenture

**10 2 Collections Accounts**

The Company has covenanted that it will not attempt or be entitled to withdraw all or any part of the monies in any Collections Account without the prior written consent of the Lender and the Lender shall be entitled in its absolute discretion to refuse to permit any such withdrawal

**10 3 Particulars of Receivables**

The company has covenanted that it will deliver to the Lender such information as to the amount and nature of its Receivables as the Lender may from time to time reasonably require

**11 Special Provisions relating to the Security Shares**

The Company has covenanted that it shall, by way of security for the Secured Obligations, in respect of all Charged Shares -

**11 1** Immediately deliver to the Lender (or as it shall direct) all certificates and other documents of title to such Charged Shares together with instruments of transfer executed in blank in respect of such Charged Shares and left undated, and

**11 2** Immediately on receipt of any certificate and other documents of title to any further or other Charged Shares deliver them to the Lender together with instruments of transfer executed in blank and left undated

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No 04691625

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 22nd JUNE 2007 AND CREATED BY OAKAPPLE HOMES (SCARBOROUGH) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO DAVENHAM TRUST PLC AND ANY MEMBER OF DAVENHAM TRUST PLC GROUP 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 3rd JULY 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 6th JULY 2007



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —

PS)

HC026B