

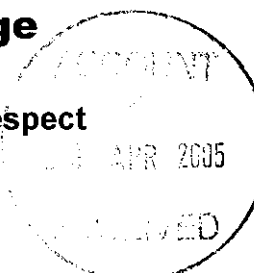
# M

COMPANIES FORM No. 395

AC00400107

## 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

CHFP025

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

Company number

[H]

04695437

Name of company

\* AVIAGEN INTERNATIONAL FINANCE TWO LIMITED (the "Assignor")

Date of creation of the charge

22 April 2005

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

A security assignment (the "Assignment") dated 22 April 2005 made between *inter alia* (1) the Assignor and (2) UBS Limited (the "Assignee") as security agent for the Secured Parties (as defined in Schedule 1 attached hereto).

Amount secured by the mortgage or charge

All the Liabilities and all other present and future obligations at any time due, owing or incurred by any Obligor to any Secured Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

See attached Schedule 1 for definitions.

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

UBS Limited, 1 Finsbury Avenue, London

Postcode EC2M 2PP

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

Clifford Chance Limited  
10 Upper Bank Street  
London  
E14 5JJ

CH London Counter

Time critical reference  
U0814/01478/COA

For official Use (02/00)  
Mortgage Section

Post room



LD2  
COMPANIES HOUSE

0440  
29/04/05

Short particulars of all the property mortgaged or charged

See attached Schedule 2.

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

*Clifford Chance LLP*

Date

*29 April 2005*

On behalf of ~~XXXXXXXXXXXX~~ (chargee) †

*A fee 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 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders must be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is: Companies House, Crown Way, Cardiff CF14 3UZ

**Schedules to Form 395 relating to a security assignment dated 22 April 2005 between Aviagen International Finance Two Limited (the "Assignor") and UBS Limited (the "Assignee") as security agent for the Secured Parties (as defined in Schedule 1 below)**

## **SCHEDULE 1**

### **DEFINITIONS**

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

**"Additional Borrower"** means a company which becomes an Additional Borrower in accordance with Clause 28 (*Changes to the Obligors*) of the Senior Facilities Agreement.

**"Additional Guarantor"** means a company which becomes an Additional Guarantor in accordance with Clause 28 (*Changes to the Obligors*) of the Senior Facilities Agreement or in accordance with Clause 25 (*Changes to the Obligors*) of the Mezzanine Facility Agreement.

**"Borrower"** means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 28 (*Changes to the Obligors*) of the Senior Facilities Agreement or a Borrower under the Mezzanine Facility Agreement.

**"Contract"** in respect of the Assignor means the contract or contracts set out opposite its name in Schedule 1 of the Assignment.

**"Company"** means Erich Wesjohann Vermögensverwaltungs GmbH & Co. KG.

**"Fee Letter"** means any letter setting out fees payable to the Assignee in connection with a transaction contemplated under any other Finance Document.

**"Finance Document"** means the Senior Facilities Agreement, the Mezzanine Facility Agreement, the Intercreditor Agreement, the Security Documents, the Fee Letters, and any other document so designated.

**"Finance Party"** means the Assignee in each of its capacities under the Finance Documents, each entity that becomes a Lender and/or Hedge Counterparty under the relevant Finance Document in accordance with the terms thereof.

**"Guarantor"** means (i) an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 28 (*Changes to the Obligors*) of the Senior Facilities Agreement or (ii) an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 25 (*Changes to the Obligors*) of the Mezzanine Facility Agreement.

**"Intercreditor Agreement"** means the intercreditor agreement dated 21 April 2005 and made between, among others, the Assignee, the Assignor and the other Obligors.

**"Lender"** means an Original Lender or an entity that becomes a Lender under the relevant Finance Document in accordance with the terms thereof.

**"Liabilities"** means all present and future liabilities and obligations at any time of any Obligor to EW Holdco in connection with Clause 16.2 (*Application of Reports Recoveries*) of the Intercreditor Agreement, or any Finance Party, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for damages or restitution; and
- (c) any claim as a result of any recovery by any Obligor of a payment or discharge on the grounds of preference,

and any amounts which would be included in any of the above but for any discharge, non-provability or unenforceability of those amounts in any insolvency or other proceedings.

**"Mezzanine Facility Agreement"** means the mezzanine facility agreement dated 20 April 2005 between, among others, the Assignee and the Obligors.

**"Obligor"** means a Borrower, a U.S. Borrower, a Guarantor or a U.S. Guarantor.

**"Original Borrower"** means each of the companies listed in Part I of Schedule 1 (*The Original Obligors*) of the Senior Facilities Agreement as original borrowers.

**"Original Guarantor"** means (i) each of the companies listed in Part I of Schedule 1 (*The Original Obligors*) of the Senior Facilities Agreement as original guarantors or (ii) each of the companies listed in Part I of Schedule 1 (*The Original Obligors*) of the Mezzanine Facility Agreement as original guarantors.

**"Original Lender"** means each of the financial institutions listed in Part II of Schedule 1 (*The Original Lenders*) of the Senior Facilities Agreement as lenders and in Part II of Schedule 1 (*The Original Lenders*) of the Mezzanine Facility Agreement as lenders.

**"Secured Parties"** means the Lenders and other Finance Parties under the Finance Documents.

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Documents"** means any document evidencing the grant of Security by any Obligor in favour of the Assignee, dated on or about 22 April 2005.

**"Senior Facilities Agreement"** means the senior facilities agreement dated 20 April 2005 and made between the Company as borrower, the Assignee as mandated lead arranger, senior facility agent and security agent and the financial institutions named in such agreement as Lenders.

**"U.S. Borrower"** means a Borrower whose jurisdiction of organisation is a state of the United States of America or the District of Columbia.

**"U.S. Guarantor"** means a Guarantor whose jurisdiction of organisation is a state of the United States of America or the District of Columbia.

**SCHEDULE 2**

**SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED**

1. **ASSIGNMENTS**

In the Assignment, the Assignor assigned absolutely and with full title guarantee to the Assignee all of its right, title and interest, present and future, in, under and to the Contract set out opposite its name in Schedule 1 of the Assignment including, without limitation, all present and future claims, causes of action, payments and proceeds in respect thereof.

2. **FURTHER ASSURANCE**

The Assignment contains covenants for further assurance.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04695437

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY ASSIGNMENT DATED THE 22nd APRIL 2005 AND CREATED BY AVIAGEN INTERNATIONAL FINANCE TWO LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM ANY OBLIGOR TO ANY SECURED PARTY 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 29th APRIL 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 4th MAY 2005.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



*Companies House*

— for the record —

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