

# M

COMPANIES FORM No. 395

219849/13

## Particulars of a mortgage or charge

# 395

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

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

219849/13

05562053

Name of company

\* Drax Group PLC (the **Chargor**)

Date of creation of the charge

3 August 2009

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

A supplemental charge dated 3 August 2009 between Drax Group PLC and Barclays Bank PLC (the **Deed**)

Amount secured by the mortgage or charge

All present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Creditor under any Secured Debt Finance Document (the **Secured Liabilities**) (all capitalised terms as defined below).

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

Barclays Bank PLC, 1 Churchill Place, London (the **Security Agent**)

Postcode E14 5HP

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

Allen & Overy LLP  
40 Bank Street  
Canary Wharf  
London

E14 5DU

Time critical reference

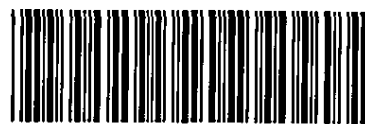
MAUC/CHA/BK:12037309

For official Use (06/2005)

Mortgage Section

Post room

FRIDAY



\*ADY15CEH\*

A16

14/08/2009

37

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

Please see continuation sheets.

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)

NIL

Signed

*Alan X O* CLP Date *13 Aug 2009*

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

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

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 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

## 1. CONSTRUCTION

In this Form 395:

- (a) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;
- (b) an amendment includes an amendment, supplement, novation, re-enactment, replacement, restatement, variation or waiver or the giving of any waiver, release or consent having the same commercial effect (and amend shall be construed accordingly);
- (c) unless the context otherwise requires, a reference to a Security Asset includes:
  - (i) any part of that Security Asset;
  - (ii) any proceeds of that Security Asset; and
  - (iii) any present and future assets of that type;
- (d) references, to or to any specified provision of, the Deed, any other Secured Debt Finance Document, or any other document ancillary or relevant to any Secured Debt Finance Document shall be construed as references to the Deed, that Secured Debt Finance Document, that provision or that document as in force for the time being and as amended which, as the Chargor specifically agrees and acknowledges in relation to the Secured Debt Finance Documents may include, without limitation:
  - (i) any increase or reduction in any amount made available thereunder and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used;
  - (ii) any facilities or indebtedness provided in substitution for or in addition to the facilities or indebtedness originally made available thereunder;
  - (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing;
  - (iv) any substitution of any existing borrower thereunder for any other borrower and/or any addition of any new borrowers thereunder;
  - (v) any increase to the margin, commitment commission, fees or other amounts payable thereunder; and
  - (vi) any combination of any of the foregoing in accordance with the terms thereof or, as the case may be, with the agreement of the relevant parties and (where any consents are required to be obtained as a condition to such amendment being permitted) with the requisite consents.

## **2. SHORT PARTICULARS OF ALL PROPERTY MORTGAGED OR CHARGED**

### **2.1 General**

- (a) All the Security:
- (i) is created in favour of the Security Agent;
  - (ii) is security for the payment, discharge and performance of all the Secured Liabilities; and
  - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 except for any Security Interests permitted under clause 23.5 of the Senior Credit Agreement and any equivalent provisions of any other Secured Debt Finance Document.
- (b) The Security Agent holds the benefit of the Deed on trust for the Secured Creditors.

### **2.2 Shares**

- (a) The Chargor (to the extent that the Secured Liabilities were not already secured by an effective mortgage or fixed charge thereof pursuant to the Original Charge) charged under the Deed:
- (i) by way of a first mortgage all Shares; and
  - (ii) (to the extent that they are not the subject of a mortgage under subparagraph (i) above) by way of a first fixed charge its interest in all Shares owned by it or any nominee on its behalf
- (b) A reference in the Deed to the Shares includes:
- (i) any dividend, interest or other distribution paid or payable;
  - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
  - (iii) any right against any clearance system; and
  - (iv) any right under any custodian or other agreement,
- in relation to the Shares.

PROVIDED THAT all dividends or other distributions made in accordance with the Secured Debt Finance Documents shall not be subject to the Security.

### **2.3 Other contracts**

- (a) The Chargor (to the extent that the Secured Liabilities were not already secured by an effective assignment thereof pursuant to the Original Charge) charged by way of a first fixed charge all of its rights in respect of its Relevant Contracts.
- (b) To the extent that any such right described in paragraph (a) above is not charged, the charge of that right purported to be effected by paragraph (a) of clause 2.3 (Other Contracts) of the Deed operates as a first fixed charge over of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.

### 3. RESTRICTIONS ON DEALINGS

The Chargor may not:

- (a) create or allow to exist any Security Interest on any of its assets; or
- (b) either in a single transaction or in a series of transactions and whether related or not and whether voluntarily or involuntarily dispose of all or any part of its assets,

unless permitted under the Secured Debt Finance Documents.

### 4. DEFINITIONS

In this Form 395:

**2006 Facility Agreement** means the £100,000 credit facility agreement dated 11 May 2006 between, amongst others, Drax Finance Limited, Commerzbank AG and Lloyds TSB Bank PLC as amended by an amendment and restatement agreement dated 3 August 2009.

**Additional Borrower** means a member of the Group that accedes to the Senior Credit Agreement, the 2006 Facility Agreement or the Forward Start Facilities Agreement as a borrower.

**Additional Guarantor** means a member of the Group that accedes to the Senior Credit Agreement, the 2006 Facility Agreement or the Forward Start Facilities Agreement as a guarantor.

**Bond Corpus Subordination Agreement** means the subordination agreement dated 15 December 2005 between, inter alios, Drax Holdings Limited, BondPower Limited, JPMorgan Chase Bank, N.A. as bond trustee and the Security Agent.

**Drax PLC** means Drax Group PLC.

**Event of Default** means an event of default howsoever defined in any of the Secured Debt Finance Documents.

**Facility Agent** means Barclays Bank PLC.

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit (including any dematerialised equivalent);
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;
- (e) any agreement treated as a finance or capital lease in accordance with generally accepted accounting principles in the jurisdiction of incorporation of Drax Finance Limited;
- (f) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (g) the acquisition cost of any asset or service to the extent payable after its acquisition or possession by the party liable where the advance or deferred payment:

- (i) is arranged primarily as a method of raising finance or of financing the acquisition of that asset or service or the construction of that asset or service; or
- (ii) involves a period of more than six months before or after the date of acquisition or supply;
- (h) any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);
- (i) any other transaction (including any forward sale or purchase agreement) which has the commercial effect of a borrowing;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any item referred to in the above paragraphs.

**Forward Start Facilities Agreement** means the credit facilities agreement dated 3 August 2009 between, amongst others, Drax Finance Limited and the Facility Agent.

**Group** means Drax Finance Limited and its subsidiaries.

**Hedging** means any interest rate swap in respect of interest relating to Senior Debt.

**Hedging Bank** means:

- (a) in relation to any Hedging of Senior Bank Debt, each Senior Bank Creditor (if any) named in schedule 4 (Hedging Banks and Hedging Documents) of the Priority Deed and any other person which becomes a party to the Priority Deed as a Hedging Bank under clause 14.1 (Accession of the Hedging Banks) of the Priority Deed, in each case in its capacity as provider of Hedging to any of the Obligors, provided that such person is a Senior Bank Lender or an affiliate of a Senior Bank Lender at the time it accedes to the Priority Deed or satisfies the requirements of the Hedging Letter; and
- (b) in relation to any Hedging of Senior Debt other than Senior Bank Debt, any person which becomes a party to the Priority Deed as a Hedging Bank under clause 14.1 (Accession of the Hedging Banks) of the Priority Deed, in each case in its capacity as provider of Hedging in respect of such Senior Debt to any of the Obligors.

**Hedging Debt** means all Liabilities of any Obligor to any Hedging Bank under or in connection with the Hedging Documents or the Priority Deed.

**Hedging Document** means each master agreement, confirmation or other document evidencing any Hedging provided by a Hedging Bank to an Obligor.

**Hedging Letter** means the letter dated on or about the date of the Priority Deed between Drax Finance Limited and the Senior Agent.

**Insolvency** means any winding-up, bankruptcy, liquidation, dissolution, administration, receivership, administrative receivership, re-organisation, moratorium or judicial composition of or in respect of any Obligor or any analogous proceedings affecting any Obligor in any jurisdiction outside England and Wales.

**Intercompany Debt** means all Liabilities of any Obligor to any other Obligor in respect of any Financial Indebtedness.

**Letter of Credit** means a letter of credit, substantially in the form of schedule 11 (Form of Letter of Credit) to the Senior Credit Agreement or in any other form agreed by the relevant issuing bank under the Senior Credit Agreement and Drax Finance Limited.

**Letter of Credit Facility** means the letter of credit facility made available under the Senior Credit Agreement in accordance with clause 2.3 (Letter of Credit Facility) of the Senior Credit Agreement.

**Liability** means in relation to any document, agreement or obligation, any present or future liability (actual or contingent) payable or owing under or in connection with that document, agreement or obligation whether or not matured and whether or not liquidated, together with:

- (a) any refinancing, novation, deferral or extension of that liability;
- (b) any claim for breach of representation, warranty, undertaking or on an event of default or under any indemnity in connection with that document or agreement;
- (c) any further advance made under any document or agreement supplemental to that document or agreement, together with all related interest, fees and costs;
- (d) any claim for damages or restitution in the event of rescission of that liability or otherwise in connection with that document or agreement;
- (e) any claim flowing from any recovery of a payment or discharge in respect of that liability on the grounds of preference or otherwise; and
- (f) any amount (such as post-insolvency interest) which would be included in any of the above but for its discharge, non-provability, unenforceability or non-allowability in any Insolvency or other proceedings.

**New Security Documents** means:

- (a) a composite debenture dated 3 August 2009 between, inter alios, the Security Agent and the 2009 Obligors;
- (b) the Deed;
- (c) each share mortgage dated on 3 August 2009 in respect of the shares of each 2009 Obligor incorporated in the Cayman Islands; and
- (d) any other document evidencing or creating security over any asset of an Obligor to secure any obligation of any Obligor under the Secured Debt Finance Documents.

**Obligor** means Drax Finance Limited, Drax Power Limited, Drax Group Limited, Drax Holdings limited, Drax Intermediate Holdings Limited, Drax Limited, Drax Investments Limited, Drax Ouse, Drax GCo, Haven Power Limited and any Additional Borrower or Additional Guarantor.

**Original Charge** means a third party charge dated 15 December 2005 between the Chargor and the Security Agent.

**Original Security Agreement** means the composite debenture dated 15 December 2005 between, inter alios, the Security Agent and the Original Obligors;

**Original Security Document** means:

- (a) the Original Security Agreement;
- (b) the Original Charge;
- (c) each share mortgage in respect of the shares of any Obligor incorporated in the Cayman Islands; and
- (d) any other document (other than a New Security Document) evidencing or creating security over any asset of an Obligor to secure any obligation of any Obligor under the Secured Debt Finance Documents.

**Party** means a party to the Deed.

**Priority Deed** means the priority deed originally dated 15 December 2005 as amended and restated on 3 August 2009 by an amendment and accession deed between, amongst others, Drax Finance Limited, the Senior Agent and the Security Agent.

**Qualifying New Senior Debt** means, in relation to a Secured Qualifying NSD Incurrence, all Liabilities of any Obligor to any Qualifying NSD Creditor under or in connection with the Qualifying NSD Secured Documents for such Qualifying NSD Incurrence.

**Qualifying NSD Creditor** means each Finance Party as defined in the Forward Start Facilities Agreement, each person (other than an Obligor or Drax PLC) that is a party to a Qualifying NSD Secured Document named as such in any deed of accession delivered in accordance with subclause 2.4 (Accession of Qualifying NSD Creditors) of the Priority Deed and each person who subsequently accedes to the Priority Deed as a Qualifying NSD Creditor in accordance with subclause 21.4 (New Creditors) of the Priority Deed.

**Qualifying NSD Incurrence** means the incurring of Financial Indebtedness by any Obligor (not being a Qualifying Refinancing) which complies with the requirements of subclause 2.3 (Criteria for Qualifying NSD Incurrence) of the Priority Deed.

**Qualifying NSD Representative** means the Facility Agent as defined in the Forward Start Facilities Agreement and in relation to a Secured Qualifying NSD Incurrence, the person named as such in any deed of accession relating thereto delivered in accordance with subclause 2.4 (Accession of Qualifying NSD Creditors) of the Priority Deed.

**Qualifying NSD Secured Documents** means each Finance Document as defined in the Forward Start Facilities Agreement and, in relation to a Secured Qualifying NSD Incurrence, each document named as such in any deed of accession relating thereto delivered in accordance with subclause 2.4 (Accession of Qualifying NSD Creditors) of the Priority Deed.

**Qualifying Refinancing** means the incurring of Financial Indebtedness by Drax Finance Limited or (if the net proceeds of such Financial Indebtedness are sufficient to irrevocably pay and discharge all Liabilities of any Obligor to any Senior Bank Creditor under or in connection with the Senior Term Loan Facility) any Obligor in order to refinance all or any part of the Senior Term Loan Facility and which complies with the requirements of subclause 2.1 (Criteria for Qualifying Refinancing) of the Priority Deed.

**Qualifying Refinancing Creditor** means each person (other than an Obligor or Drax PLC) that is a party to a Qualifying Refinancing Secured Document named as such in any deed of accession



delivered in accordance with subclause 2.2 (Accession of Qualifying Refinancing Creditor) of the Priority Deed and each person who subsequently accedes to the Priority Deed as a Qualifying Refinancing Creditor in accordance with subclause 21.4 (New Creditors) of the Priority Deed.

**Qualifying Refinancing Representative** means, in relation to a Secured Qualifying Refinancing, the person named as such in any deed of accession relating thereto delivered in accordance with subclause 2.2 (Accession of Qualifying Refinancing Creditors) of the Priority Deed.

**Qualifying Refinancing Secured Debt** means, in relation to a Secured Qualifying Refinancing, all Liabilities of any Obligor to any Qualifying Refinancing Creditor under or in connection with the Qualifying Refinancing Secured Documents for such Qualifying Refinancing.

**Qualifying Refinancing Secured Documents** means, in relation to a Secured Qualifying Refinancing, each document named as such in any deed of accession relating thereto delivered in accordance with subclause 2.2 (Accession of Qualifying Refinancing Creditors) of the Priority Deed.

**Relevant Contract** means any agreement evidencing any indebtedness payable or owing by Drax Finance Limited to the Chargor.

**Secured Creditor** means a Senior Creditor or a Hedging Bank as the context requires.

**Secured Debt Finance Documents** means the Senior Finance Documents, the Hedging Documents, the Qualifying Refinancing Secured Documents and the Qualifying NSD Secured Documents.

**Secured Qualifying NSD Incurrence** means a Qualifying NSD Incurrence the parties to which (other than an Obligor) have delivered a deed of accession in accordance with subclause 2.4 (Accession of Qualifying NSD Creditors) of the Priority Deed.

**Secured Qualifying Refinancing** means a Qualifying Refinancing the parties to which (other than an Obligor) have delivered a deed of accession in accordance with subclause 2.2 (Accession of Qualifying Refinancing Creditors) of the Priority Deed.

**Security** means any Security Interest created, evidenced or conferred by or under the Deed.

**Security Assets** means the Shares and any Relevant Contract.

**Security Document** means the Original Security Documents and the New Security Documents. **Security Interest** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect.

**Senior Agent** means Barclays Bank PLC as facility agent for the lenders under the Senior Credit Agreement.

**Senior Bank Creditor** means each of:

- (a) the persons named in schedule 2 (Senior Bank Creditors) of the Priority Deed in their capacity as senior lenders and/or issuing bank under the Senior Credit Agreement;
- (b) each arranger under the Senior Credit Agreement, the Senior Agent and (until the Senior Discharge Date) the Security Agent; and
- (c) each person who accedes to the Priority Deed as a Senior Bank Creditor in accordance with subclause 21.4 (New Creditors) of the Priority Deed.

**Senior Bank Debt** means all Liabilities of any Obligor to any Senior Bank Creditor under or in connection with the Senior Finance Documents.

**Senior Bank Lender** means a lender and/or an issuing bank under the Senior Credit Agreement.

**Senior Debt** means the Senior Bank Debt, the Qualifying Refinancing Secured Debt and/or the Qualifying New Senior Debt, as the context requires.

**Senior Creditor** means a Senior Bank Creditor, a Qualifying Refinancing Creditor or a Qualifying NSD Creditor.

**Senior Credit Agreement** means the £800,000,000 credit agreement originally dated 27 October 2005 between, amongst others, Drax Finance Limited, the Senior Agent and the Security Agent as amended by an amendment and restatement agreement dated 3 August 2009.

**Senior Discharge Date** means the date on which each of the Senior Agent, any Qualifying Refinancing Representative, any Qualifying NSD Representative and the Security Agent is satisfied (acting reasonably) that all of the Senior Debt and Hedging Debt has been irrevocably paid and discharged and all commitments of the Senior Creditors have been cancelled and all obligations of the Hedging Banks under the Hedging Documents have been terminated.

**Senior Finance Document** means the Senior Credit Agreement, the Priority Deed, a Letter of Credit, the escrow and distribution agreement referenced in the Senior Credit Agreement, the Security Documents, a fee letter, a transfer certificate, an accession agreement, an issuing bank accession agreement, the transfer memorandum dated 5 December 2006 between, inter alios, Drax Electric Limited, Drax Holdings Limited, Drax Finance Limited, the Bond Corpus Subordination Agreement or any other document designated as such by the Senior Agent and Drax Finance Limited, but for this purpose, excluding the Hedging Documents.

**Shares** means the shares held by the Chargor in Drax Finance Limited, as specified in Part 1 of Schedule 1 (Security Assets) of this Form 395, and any other shares in the capital of Drax Finance Limited which are at the relevant time held by the Chargor.

**Senior Term Loan Facility** means the term loan facility made available under the Senior Credit Agreement.

**SCHEDULE 1**  
**SECURITY ASSETS**  
**PART 1**  
**SHARES**

	<b>Name of company in which shares are held</b>	<b>Class of shares held</b>	<b>Number of shares held</b>
	Drax Finance Limited	Ordinary	1,666,182,002

+95



## **CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE**

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

**COMPANY NO. 5562053  
CHARGE NO. 2**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A SUPPLEMENTAL CHARGE DATED  
3 AUGUST 2009 AND CREATED BY DRAX GROUP PLC FOR  
SECURING ALL MONIES DUE OR TO BECOME DUE FROM  
EACH OBLIGOR TO ANY SECURED CREDITOR 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 14 AUGUST  
2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 17 AUGUST 2009

PO  
JBL



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES