

MG01

Particulars of a mortgage or charge

275731126



A fee is payable with this form

We will not accept this form unless you send the correct fee
Please see 'How to pay' on the last page



What this form is for

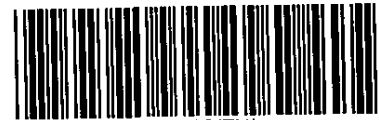
You may use this form to register
particulars of a mortgage or charge
in England and Wales or Northern
Ireland



What this form is NOT

You cannot use this form to register
particulars of a charge of a
company. To do this, please use
form MG01s

THURSDAY



A19

A13AVYZN

23/02/2012

#53

COMPANIES HOUSE

1

Company details

Company number

0 5 9 4 8 8 8 5

Company name in full

Everest Secondary Limited

5

For official use

→ Filling in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Date of creation of charge

Date of creation

d0 d9 m0 m2 y2 y0 y1 y2

3

Description

Please give a description of the instrument (if any) creating or evidencing the
charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

Pledge Agreement (the "Pledge Agreement")

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

As specified in the continuation page to this form

Continuation page

Please use a continuation page if
you need to enter more details

MG01

Particulars of a mortgage or charge

5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Continuation page

Please use a continuation page if you need to enter more details

Name Brian George Kennedy

Address Swettenham Hall, Swettenham

Congleton, Cheshire

Postcode C W 1 2 2 J Z

Name

Address

Postcode

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Continuation page

Please use a continuation page if you need to enter more details

Short particulars

As specified in the continuation page to this form

MG01 - continuation page

Particulars of a mortgage or charge

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

Pursuant to the Pledge Agreement, the amount secured is, all Credit Obligations, whether as at the date of the Pledge Agreement or thereafter due, owing or incurred in any manner, whether actual or contingent, whether incurred solely or jointly with any other Person and whether as principal or surety (and including all liabilities in connection with any notes, bills or other instruments accepted by the Lender in connection therewith), together with all renewals, modifications, consolidations or extensions thereof

(the "**Finance Obligations**")

All capitalised terms used in this form are defined in the Appendix to this form

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

1 Grant of Security Interests

Pursuant to the Pledge Agreement, the Chargor agreed to secure the due and punctual payment of the Finance Obligations, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, as at the date of the Pledge Agreement or thereafter existing or due or to become due, in accordance with the terms thereof and to secure the performance of all the obligations of each Pledgor thereunder and under the other Finance Documents in respect of the Finance Obligations, the Chargor granted to the Lender for the benefit of the Lender a security interest in, and the Chargor pledged and collaterally assigned to the Lender for the benefit of the Lender, all of the Chargor's right, title and interest in, to and under the Collateral

2 Collateral

All right title and interest of the Chargor in, to and under those Partnership Interests set out in Schedule IV of the Pledge Agreement (as set out in Schedule 1 below) whether owned at the date of the Pledge Agreement or thereafter acquired by the Chargor, created or arising, whether tangible or intangible, and regardless of where located, are herein collectively called the "Chargor's Collateral"

3 Security Interests Absolute

3 1 All rights of the Lender, all security interests under the Pledge Agreement and all obligations of the Chargor thereunder are unconditional and absolute and independent and separate from any other security for or guaranty of the Finance Obligations, whether executed by the Chargor, any Pledgor or any other Person. Without limiting the generality of the foregoing, the obligations of the Chargor under the Pledge Agreement shall not be released, discharged or otherwise affected or impaired by

3 1 1 any extension, renewal, settlement, compromise, acceleration, waiver or release in respect of any obligation of any Pledgor under any Finance Document or any other agreement or instrument evidencing or securing any Finance Obligation, by operation of law or otherwise,

3 1 2 any change in the manner, place, time or terms of payment of any Finance Obligation or any other amendment, supplement or modification to any Finance Document or any other agreement or instrument evidencing or securing any Finance Obligation,

3 1 3 any release, non-perfection or invalidity of any direct or indirect security for any Finance Obligation, any sale, exchange, surrender, realisation upon, offset against or other action in

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

respect of any direct or indirect security for any Finance Obligation or any release of any other obligor or Pledgor in respect of any Finance Obligation,

3.1 4 any change in the existence, structure or ownership of the Chargor or any Pledgor, or any insolvency, bankruptcy, reorganisation, arrangement, readjustment, composition, liquidation or other similar proceeding affecting the Chargor or any Pledgor or its assets or any resulting disallowance, release or discharge of all or any portion of any Finance Obligation,

3.1.5 the existence of any claim, set-off or other right which the Chargor or any Pledgor may have at any time against the Borrower, any Pledgor, the Lender, or any other Person, whether in connection therewith or any unreleased transaction, provided that nothing therein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim,

3 1 6 any invalidity or unenforceability relating to or against the Borrower, the Chargor or any Pledgor for any reason of any Finance Document or any other agreement or instruction evidencing or securing any Finance Obligation or any provision of applicable law or regulation purporting to prohibit the payment by the Borrower or any Pledgor of any Finance Obligation,

3 1 7 any failure by the Lender (A) to file or enforce a claim against the Chargor or any Pledgor or its estate (in an bankruptcy or other proceeding); (B) to give notice of the existence, creation or incurrence by the Chargor or any Pledgor of any new or additional indebtedness or obligation under or with respect to the Finance Obligations; (C) to commence any action against the Chargor or any Pledgor, (D) to disclose to the Chargor or any Pledgor any facts which the Lender may as at the date of the Pledge Agreement or thereafter know with regard to the Chargor or any Pledgor, or (E) to proceed with due diligence in the collection, protection or realisation upon any collateral securing the Finance Obligations,

3.1.8 any direction as to application of payment by the Borrower, the Chargor or any Pledgor or any other Person,

3 1 9 any subordination by the Lender of the payment of any Finance Obligation to the payment of any other liability (whether matured or unmatured) of the Chargor or any Pledgor to its creditors,

3.1.10 any act or failure to act by the Lender under the Pledge Agreement or otherwise which may deprive the Chargor or any

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

Pledgor of any right to subrogation, contribution or reimbursement against any other Pledgor or any right to recover full indemnity for any payments made by the Chargor in respect of the Finance Obligations, or

3 1 11 any other act or omission to act or delay of any kind by the Chargor or any Pledgor or the Lender or any other Person or any other circumstances whatsoever which might, but for the provisions of section 2 03 of the Pledge Agreement (as described in this paragraph 3 1), constitute a legal or equitable discharge of any Pledgor's obligations under the Pledge Agreement, except that the Chargor may assert the defence of final payment in full of the Finance Obligations

3 2 The Chargor irrevocably and unconditionally delivered the Pledge Agreement to the Lender, for the benefit of the Lender, and the failure by any other Person to sign the Pledge Agreement or similar agreement to the Pledge Agreement or otherwise shall not discharge the obligations of the Chargor thereunder.

3 3 The Pledge Agreement shall remain fully enforceable against the Chargor irrespective of any defences that any Pledgor may have or assert in respect of the Finance Obligations, including, without limitation, failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury, except that the Chargor may assert the defence of final payment in full of the Finance Obligations

4 Continuing Liability of the Pledgors

The Security Interest is granted as security only and shall not subject the Lender to, or transfer or in any way affect or modify, any obligation or liability of the Chargor with respect to any of the Chargor's Collateral or any transaction in connection therewith

5. Disposition of Collateral

The Chargor will not sell, exchange, assign or otherwise dispose of, or grant any option with respect to, the Chargor's Collateral or create or suffer to exist any Lien (other than the Security Interest and other Permitted Liens) on any Collateral except that, so long as no Event of Default has occurred and is continuing, the Chargor may at any time make (a) any Permitted Disposal, or (b) any Sale, in circumstances where (i) the Lender has been given at least 10 Business Days' prior written notice of the proposed Sale (including, without limitation, any mechanics involved relating to the calculation of the consideration payable in respect of such Sale), (ii) the proceeds of such sale are sufficient to discharge in full the Liabilities, (iii) the Lender is satisfied with the completion payment mechanics in respect of

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

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Short particulars

such Sale; and (iv) such Pledgor has obtained the prior written consent of the Lender in respect of such Sale (such consent not to be unreasonably withheld or delayed); provided, however, during the continuance of an Event of Default, such Pledgor may make any disposition of the type described in clauses (a) and/or (f) of the definition of "Permitted Disposals " In the case of any disposition permitted under Section 4.05 of the Pledge Agreement, the Security Interest created in such item (but not in any Proceeds arising from such disposition) shall cease immediately without any further action on the part of the Lender

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

Schedule 1

Partnership Interests

Holder	General Partnership	Pledged Interest	Certificate No.
Everest Secondary Limited	Four Seasons Sunrooms Acquisition Partnership	50%	2

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

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Short particulars

APPENDIX

DEFINITIONS AND CONSTRUCTION

Definitions

In this form and its Appendices the following definitions apply

"Borrower" means NE Investments Limited, a company registered in England under company number 6329935 whose registered address is at Bow Chambers, 8 Tib Lane, Manchester, M2 4JB

"Chargor" means Everest Secondary Limited, a company registered in England under company number 5948885, whose registered address is Bow Chambers, 8 Tib Lane, Manchester, M2 4JB.

"Collateral" has the meaning set forth in Section 2 02 of the Pledge Agreement

"Credit Obligations" means

(i) all principal of and interest (including, without limitation, any interest which accrues after the commencement of any bankruptcy or insolvency proceeding with respect to any Credit Party, whether or not allowed or allowable as a claim under any bankruptcy or insolvency proceeding) owing by any Credit Party to the Lender under the terms of the Finance Documents (or any of them),

(ii) all fees, expenses, indemnification obligations and other amounts of whatever nature as at the date of the Pledge Agreement or thereafter payable by any Credit Party (including, without limitation, any amounts which accrue after the commencement of any bankruptcy or insolvency proceeding with respect to any Credit Party, whether or not allowed or allowable as a claim under any bankruptcy or insolvency proceeding) pursuant to the Finance Documents (or any of them),

(iii) all expenses of the Lender as to which the Lender has a right to reimbursement under Section 8 03(a) or (b) of the Pledge Agreement or any other similar provision of the Indemnity Agreement or any Security Document, including, without limitation, any and all sums advanced by the Lender to preserve any Collateral or to preserve its security interest in any Collateral;

(iv) all amounts paid by any Indemnitee (as defined in the Indemnity Agreement) as to which such Indemnitee has the right to reimbursement under Section 8 03(c) of the Pledge Agreement or under any other similar provision of any other Finance Document, and

(v) in the case of the Chargor, all amounts as at the date of the Pledge Agreement or thereafter payable by the Chargor and all other obligations or

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

liabilities existing as at the date of the Pledge Agreement or thereafter arising or incurred on the part of such Pledgor pursuant to the Pledge Agreement or any other Finance Document,

together in each case with all renewals, modifications, consolidations or extensions thereof

"Credit Party" means each Pledgor, and any other Group Company, and **"Credit Parties"** means all of them, collectively

"Event of Default" means the failure of the Borrower to pay amounts due and owing in accordance with the Indemnity Agreement (after giving effect to any grace or cure period therein)

"Finance Documents" means (i) the Indemnity Agreement (as defined in the Security Agreement) and (ii) each Security Document

"Finance Obligations" has the meaning given to it in part 4 of this form

"Full Group Security" means guarantees in favor of the Lender from each Group Company on account of the obligations of each other Group Company to the Lender and such security documents by each Group Company (comprising fixed and floating charges) as the Lender may require

"Group" means the Borrower and each of its Subsidiaries but excluding PropCo 2 and **"Group Company"** is to be constructed accordingly

"Guaranty" means the Guaranty dated 9 February 2012 among the guarantors from time to time party thereto and the Lender, as the same may be amended, modified or supplemented from time to time.

"Lender" means Brian George Kennedy of Swettenham Hall, Swettenham, Congleton, Cheshire, CW12 2JZ

"Liabilities" has the meaning set forth in the Indemnity Agreement

"Lien" means, with respect to any asset, any security interest, charge, mortgage, pledge, hypothecation, assignment for security, encumbrance, lien (statutory or other), or other preference or priority of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the UCC or comparable laws of any jurisdiction), including the interest of a purchaser of accounts receivable, chattel paper, payment intangibles or promissory notes

"Partnership Interests" means:

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

- (i) the partnership interests described on Schedule IV of the Pledge Agreement as set out in Schedule 1 of Part 6 of this form, as such Schedule may be amended, supplemented or modified from time to time (the "Pledged Partnership Interests"), and all dividends, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable or otherwise made upon or distributed in respect of or in exchange for any or all of the Pledged Partnership Interests,
- (ii) all additional or substitute partnership interests from time to time issued to or otherwise acquired by the Chargor or any Pledgor in any manner in respect of Pledged Partnership Interests or otherwise, and all dividends, distributions, cash, instruments and other property, income, profits and proceeds from time to time received or receivable or otherwise made upon or distributed in respect of such additional or substitute partnership interests,
- (iii) all right, title and interest of the Chargor or any Pledgor in each partnership to which any Pledged Partnership Interest relates, including, without limitation
- (A) all interests of the Chargor in the capital of such partnership and in all profits, losses and assets, whether tangible or intangible and whether real, personal or mixed, of such partnership, and all other distributions to which such Pledgor shall at any time be entitled in respect of such Pledged Partnership Interests,
- (B) all other payments due or to become due to the Chargor in respect of Pledged Partnership Interests, whether under any partnership agreement or otherwise and whether as contractual obligations, damages, insurance proceeds or otherwise,
- (C) all of the Chargor's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under any partnership agreement, or at law or otherwise in respect of such Pledged Partnership Interests,
- (D) all claims as at the date of the Pledge Agreement and in the future, if any, of the Chargor against any such partnership for moneys loaned or advanced, for services rendered or otherwise; and
- (E) all of the Chargor's rights under any partnership agreement or at law to exercise and enforce every right, power, remedy, authority, option and privilege of the Chargor relating to such Pledged Partnership Interests, including any power to terminate, cancel or modify any partnership agreement, to execute any instruments and to take any and all other action on behalf of and in the name of the Chargor in respect of such Pledged Partnership Interests and any such partnership, to make determinations, to exercise any election (including, without limitation, election of remedies) or option to give or receive any notice, consent, amendment, waiver or approval, together with full power and authority to demand, receive, enforce, collect or give receipt for any of the foregoing or for any assets of any such partnership, to

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

enforce or execute any checks or other instruments or orders, to file any claims and to take any other action in connection with any of the foregoing, and

in each case to the extent not otherwise included in the foregoing, all cash and non-cash Proceeds thereof

"Permitted Disposals" means

- (a) the disposal of inventory in the ordinary and usual course of business,
- (b) disposals between Group Companies where the transferee has granted Full Group Security,
- (c) disposals where the proceeds of any one disposal or series of related disposals are greater than or equal to \$100,000 and such proceeds are applied towards the acquisition of a replacement within 180 days of the disposal,
- (d) disposals where the proceeds of any one disposal or series of related disposals are less than \$100,000 and such proceeds are applied towards the acquisition of a replacement within 180 days of the disposal, provided that (where the disposal proceeds of any such disposal are greater than \$40,000) the Lender is notified.
 - (i) of each such disposal within five Business Days of the occurrence, and
 - (ii) of the use of the disposal proceeds within five Business Days of their application or, if such disposal proceeds are not applied towards the acquisition of a replacement within 180 days of the disposal, that such disposal proceeds have not been so applied
- (e) disposals made other than in the ordinary and usual course of business and not referred to in paragraphs (a) to (d) of this definition, provided that such disposals are on an arm's length basis and the value of the assets disposed of (whether by a single or several transactions), when taken together with all similar disposals made by the Group, is not in total more than \$500,000 per annum, and
- (f) disposals on an arm's length terms of obsolete items not required for the efficient operation of the Group

"Permitted Liens" means

- (b) liens and rights of set-off securing obligations which are not overdue beyond their standard payment dates, arising by operation of law in the ordinary and usual course of business,
- (c) Security Rights arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of business;

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

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Short particulars

(d) Security Rights arising under or in connection with, or evidenced by, (i) the Security Agreement dated as of September 4, 2007 among the obligors from time to time party thereto and Brian George Kennedy (as assignee of Bank of Scotland PLC (f/k/a The Governor and Company of The Bank of Scotland)), (ii) the Pledge Agreement dated as of September 4, 2007 among the pledgors from time to time party thereto and Brian George Kennedy (as assignee of Bank of Scotland PLC (f/k/a The Governor and Company of The Bank of Scotland)), and (iii) any other "Finance Document" (as defined in the Security Agreement referred to in clause (i) above);

(e) any interest or title of (i) an owner of equipment or inventory on loan or consignment to any Pledgor and liens arising from precautionary Uniform Commercial Code financing statement filings made in respect of operating leases entered into by any Pledgor in the ordinary course of business, and (ii) a lessor or secured by a lessor's interest under any lease permitted hereunder, and

(f) Security Rights granted in terms of the Finance Documents or with the prior written approval of the Lender

"Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture or other entity

"Pledge Agreement" has the meaning given to it in part 3 of this form

"Pledgor" means those Subsidiaries of the Borrower which are party to the Pledge Agreement, except the Chargor

"Sale" means a sale of the whole or a substantial part of the business, assets (including, without limitation, shareholdings) and undertaking of the Group

"Security Agreement" means the security agreement dated 9 February 2012 among each Pledgor (except the Chargor and Everest Intermediate Limited) as at the date of the Security Agreement and the Lender, as the same may be amended, modified or supplemented from time to time

"Security Documents" means the Pledge Agreement, the Guaranty, any control agreements related to the foregoing documents and any additional documents the execution of which is necessary or incidental to carrying out the terms of the foregoing documents

"Security Interest" means the security interest granted in favour of the Lender pursuant to Section 2.01 of the Pledge Agreement (as described in paragraph 1 of Part 6 of this form) for the benefit of the Lender securing the Finance Obligations

"Security Rights" means any mortgage, charge, security, pledge, lien, right of set-off, right to retention of title or other similar encumbrance, whether fixed or floating, over any property, assets or undertaking as at the date of the Pledge Agreement or in the future

MG01 - continuation page

Particulars of a mortgage or charge

6

Short particulars of all the property mortgaged or charged

Please give us the short particulars of the property mortgaged or charged

Short particulars

"**Subsidiary**" means, with respect to any Person, a corporation, partnership, limited liability company or other entity of which such Person and/or its other Subsidiaries own, directly or indirectly, such number of outstanding shares or other ownership interests as have more than 50% of the ordinary voting power for the election of directors or other managers of such entity

MG01

Particulars of a mortgage or charge

7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount Nil

8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

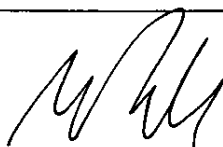
9 Signature

Please sign the form here

Signature

Signature

X



for Everheds LLP

X

This form must be signed by a person with an interest in the registration of the charge

MG01

Particulars of a mortgage or charge



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name Clint Dempsey

Company name Eversheds LLP

Address Eversheds House, 70 Great Bridgewater Street

Post town Manchester

County/Region

Postcode

M 1 5 E S

Country

DX DX 14344 Manchester

Telephone 0845 497 9797



Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



Important information

Please note that all information on this form will appear on the public record.



How to pay

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

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below.

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 5948885
CHARGE NO. 5**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A PLEDGE AGREEMENT DATED 9
FEBRUARY 2012 AND CREATED BY EVEREST SECONDARY
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME
DUE FROM THE CREDIT PARTY TO THE LENDER ON ANY
ACCOUNT WHATSOEVER AND ALL MONIES DUE OR TO
BECOME DUE FROM THE INDEMNITEE AND ALL MONIES DUE
OR TO BECOME DUE FROM THE COMPANY UNDER THE
TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING
OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT
TO CHAPTER 1 PART 25 OF THE COMPANIES ACT 2006 ON THE
23 FEBRUARY 2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 28 FEBRUARY
2012

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THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES