

225134/13

M**COMPANIES FORM No. 395****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

Pursuant to section 395 of the Companies Act 1985

Please do not
write in
this margin

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

* insert full name
of Company

To the Registrar of Companies

For official use

Company number

1		
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06580907

Name of company

Avanti Caledonian Broadband Limited (the "Chargor").

Date of creation of the charge

29 July 2009

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

Composite debenture (the "Debenture") dated 29 July 2009 between the Chargor, Avanti (NI) Limited, Avanti Broadband (IRE) Limited, Avanti Launch Services Limited, Avanti Broadband Limited and Commerzbank AG, Luxembourg Branch as security agent (the "Security Agent").

Amount secured by the mortgage or charge

All present and future Liabilities of the Borrower, the Guarantors and the Chargor to the Secured Creditors (or any of them) under or in relation to any one or more of the Finance Documents (including, without limitation, all Liabilities arising out of any extension, variation, modification, restatement or novation of such Finance Documents whatsoever) (the "Secured Obligations").

(In this Form 395, unless otherwise defined, the terms used have the meaning given thereto in Schedule 2 on continuation sheets 5-8)

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

Commerzbank AG, Luxembourg Branch as security agent at Boîte Postale 265, L-2012, Luxembourg.

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

White & Case LLP
5 Old Broad Street
London EC2N 1DW

Our ref: 4479778-0003
SP/DM/HK/AC
Tel.: 02075321962

Time critical reference

For official Use
Mortgage Section

Post room



L2H48C7Z

LD5

07/08/2009

242

COMPANIES HOUSE

Laserform International 1/05

Short particulars of all the property mortgaged or charged

Please see Schedule 1 on continuation sheets 2-4

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)

N/A

Signed *White & Case LLP*

Date *7* August 2009

On behalf of the 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 mortgage for or charge. 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

Please do not
write in this
binding margin

COMPANIES FORM No. 395 (Cont.) AND FORM No. 410 (Scot)(Cont.)
Particulars of a mortgage or charge
(continued)

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

Continuation sheet No. 1
to Form No 395 and 410 (Scot)

Company Number

06580907

Name of company

Avanti Caledonian Broadband Limited, a company incorporated in England and Wales (the "Chargor").

SCHEDULE 1: SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

FIXED CHARGES

1.1 Fixed Charges

The Chargor, with full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations, charges in favour of the Security Agent to hold the same on trust for the Secured Creditors on the terms set out in the Security Trust Deed:

- (a) by way of first legal mortgage, all of the Real Property (if any) specified in Part I of Schedule 1 (*Real Property*) of the Debenture and all other Real Property now vested in the Chargor and the proceeds of sale of all or any part thereof;
- (b) by way of first fixed charge all of the Chargor's present and future right, title and interest in and to the benefit of (but in the case of paragraphs (vi) and (vii) below only if and to the extent the rights in question have not been effectively assigned pursuant to paragraph 2 (*Assignments*) below or such rights have been effectively assigned but such assignment has not been perfected by the service of the appropriate Notice of Assignment) :
 - (i) to the extent not effectively charged pursuant to paragraph (a) of this paragraph 1, all estates or interests in any Real Property (whether such interests are freehold, leasehold or licenses) vested in, or acquired by, it now or after the date of the Debenture and the proceeds of sale of all or any part thereof;
 - (ii) to the extent not effectively charged pursuant to paragraph (a) or (b)(i) of this paragraph 1, all plant and machinery, equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Chargor's stock in trade or work in progress) now or in the future owned by such Chargor or (to the extent of such interest) in which the Chargor has an interest and the benefit of all contracts and warranties relating to the same;
 - (iii) all Charged Accounts;
 - (iv) the Intercompany Indebtedness;
 - (v) all Investments and all Related Rights;
 - (vi) all Insurances and all Related Rights;
 - (vii) (to the extent that the same are not effectively assigned pursuant to paragraph 2 (*Assignments*) below) the HYLAS LSA and any other Material Contract and all Related Rights;
 - (viii) any pension fund (to the extent permitted as a matter of law);
 - (ix) all Ka Band Licences and Ku Band Licences and all other licences and Authorisations held in connection with the business of the Chargor or the use of any asset of the Chargor and the right to recover and receive all compensation which may at any time become payable to it in respect of the same;
 - (x) any interest, claim or entitlement of the Chargor in, to or in respect of any pension fund;
 - (xi) all its present and future uncalled capital and goodwill (including all brand names not otherwise subject to a fixed charge or assignment under the Debenture) of the Chargor; and
 - (xii) all its present and future Intellectual Property including all Registered Intellectual Property Rights, patents, registered trade marks and registered designs (if any) including applications for any of the same in any part of the world.

1.2 Fixed Charges in relation to Shares

With full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations, the Parent of UK Chargors hereby charges in favour of the Security Agent, to hold the same on trust for the Secured Creditors on the terms set out in the Security Trust Deed, all its present and future rights, title, benefit and interest under and in respect of all shares that it holds in any member of the Group.

2 ASSIGNMENTS

2.1 Assignments

Subject to paragraph 2.2 (*Non Assignable Rights*) below, the Chargor with full title guarantee assigns absolutely by way of continuing security for the payment and discharge of the Secured Obligations to the Security Agent to hold the same on trust for the Secured Creditors on the terms set out in the Security Trust Deed all its present and future right, title, benefit and interest under and in respect of:

- (a) each of the HYLAS LSA any other Material Contract and all Related Rights;
- (b) the Insurances and all Related Rights;
- (c) all Assigned Accounts;
- (d) to the extent not charged under the provisions of Clause 3.1(b)(xii) of the Debenture, all Intellectual Property Rights; and
- (e) all its present and future rights, title, benefit and interests under and in respect of the Intercompany Indebtedness and any other amounts payable in respect thereof.

2.2 Non Assignable Rights

The Chargor declares that to the extent that any right, title, interest or benefit described in paragraph 2.1 (*Assignments*) above is for any reason not effectively assigned pursuant to paragraph 2.1 above for whatever reason, the relevant Chargor shall:

- (a) promptly notify the Security Agent of the same and the reasons therefor;
- (b) hold the benefit of the same on trust for the Security Agent as security for the payment and discharge of the Secured Obligations; and
- (c) take such steps as the Security Agent may require to remove such impediment to an assignment.

3. FLOATING CHARGE

(a) The Chargor with full title guarantee hereby charges to the Security Agent, to hold the same on trust for the Secured Creditors on the terms set out in the Security Trust Deed, by way of first floating charge and as a continuing security for the payment and discharge of the Secured Obligations all its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future, not effectively charged by way of fixed charge or assigned pursuant to paragraphs 1.1 (*Fixed Charge*) above, 1.2 (*Fixed Charges in relation to Shares*) above and 2 (*Assignments*) below.

(b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to Clause 5.5 of the Debenture.

4. COVENANT TO PAY

4.1 Covenant to pay

The Chargor agrees, as a primary obligor, that it will pay and discharge the Secured Obligations as and when they fall due or, promptly on demand of the Security Agent.

4.2 Interest

Any Secured Obligation which is owed by the Chargor under the Debenture and is not paid when due shall bear interest at the Default Rate from the due date until the date on which such Secured Obligation is unconditionally and irrevocably paid in full and such interest shall accrue from day to day (after as well as before judgment) and be payable by the Chargor on demand of the Security Agent. The Chargor shall not be liable to pay interest under this clause on any sum due for which interest has already been demanded under the Facility Agreement.

5. NEGATIVE PLEDGE AND DISPOSALS

The Chargor will not:

- (a) create or permit to subsist any encumbrance over all or any of its present or future assets

other than:

- (i) an encumbrance constituted by or created pursuant to any of the Finance Documents; and
- (ii) other encumbrances expressly permitted under the terms of the Finance Documents; and
- (b) dispose of any of its assets except to the extent and in the manner expressly permitted under the Finance Documents.

6. FURTHER ASSURANCE

The Chargor shall from time to time and at its own expense, give all such assurances and do all such things as the Security Agent may reasonably require to enable the Security Agent to perfect, preserve or protect the Security or the priority of the Security or to exercise any of the rights conferred on the Security Agent or the Secured Creditors by this Debenture or by law and to that intent the Chargor shall execute all such instruments, deeds and agreements, obtain all consents, approvals and other authorisations reasonably necessary to create legally and validly, without any breach of contract or duty, the fixed charges and to effect the assignments envisaged under Clause 3 (*Charges*) of the Debenture and paragraph 2 (*Assignments*) above respectively, and shall give all such notices and directions as the Security Agent may reasonably consider expedient. The obligations of the Chargor under this paragraph 6 are in addition to the covenants for further assurance deemed to be included by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

7. CONTINUING AND INDEPENDENT SECURITY

The Security shall constitute and be continuing security which shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Obligations, shall continue in full force and effect until the end of the Security Period and is in addition to and independent of, and shall not prejudice or merge with, any other security (or any right of set off) which the Security Agent or any other Secured Creditor may hold at any time for the Secured Obligations or any of them.

SCHEDULE 2: DEFINITIONS

In this Form 395:

"Account" means any account now or in the future opened or maintained by the Chargor with a bank or other financial institution (and any replacement account or subdivision or subaccount of that account), all amounts from time to time standing to the credit of, or accrued or accruing on, such account and all Related Rights.

"Accounting Principles" means IFRS.

"Amended Facility Agreement" has the meaning given to that term in the Amendment and Restatement Deed.

"Amendment and Restatement Deed" means the amendment and restatement deed dated 26 June 2009 between, among others, the Borrower, the Facility Agent and the Security Agent relating to the amendment and restatement of the Facilities Agreement.

"Assigned Account" means:

- (a) Each Account identified in Part IV of Schedule 1 (*Details of Certain Assets*) of the Debenture;
- (b) Any other Account designated in writing as an Assigned Account by the Security Agent and the Parent.

"Authorisation" means an authorisation, consent, approval, resolution, permit, concession, exemption, filing, notarisation or registration.

"Charged Accounts" means:

- (a) each Mandatory Prepayment Account;
- (b) each Holding Account;
- (c) each Collateral Account; and
- (d) any other Account maintained by each Chargor with the Security Agent.

"Collateral Account" means any Account that may from time to time be opened by the Chargor with the Security Agent pursuant to paragraph (a)(iii) of Clause 9.1 (*Accounts General*) of the Debenture.

"Compliance Certificate" means a certificate substantially in the form set out in Schedule 9 (*Form of Compliance Certificate*) of the Facilities Agreement in form and substance satisfactory to the Facility Agent.

"Default Rate" means the rate specified in Clause 10.4 (*Default Interest*) of the Facilities Agreement.

"Facilities Agreement" means the senior term facility agreement dated 13 July 2007 (as amended on 30 June 2008 and amended and restated on 26 June 2009) between, among others, Avanti Communications Group PLC as Parent, Avanti Communications Infrastructure Limited as the Borrower, the Guarantors, Commerzbank as Facility Agent and Security Agent and the Lenders (each as defined therein).

"Fee Letter" has the meaning ascribed to it in the Facilities Agreement.

"Finance Document" means the Facilities Agreement, the Amendment and Restatement Deed, the Amended Facility Agreement, any Compliance Certificate, any Fee Letter, the Security Trust Deed, any Transaction Security Document, any Transfer Certificate, any Utilisation Request and any other document designated as a "Finance Document" by the Facility Agent and the Borrower.

"Finance Parties" means the Facility Agent, the Security Agent and/or a Lender.

"Fixtures" means, in relation to any Real Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant, machinery and equipment and other items attached to the relevant Real Property whether or not constituting a fixture at law.

"Group" means the Parent and each of its respective Subsidiaries from time to time, excluding the Unrestricted Subsidiaries and **"Group Member"** means any of those persons.

"Holding Account" means an account:

- (a) held by a member of the Group with the Facility Agent or Security Agent;

- (b) identified in a letter between the Parent and the Facility Agent as a Holding Account; and
 - (c) subject to security in favour of the Security Agent which security is in form and substance satisfaction to the Security Agent,
- (as the same may be redesignated, substituted or replaced from time to time).

"HYLAS Contract" means the contract dated 31 March 2006 entered into between Avanti Space Limited and EADS Astrium Limited for the manufacture of the HYLAS Satellite.

"HYLAS LSA" means the contract for launch services dated on or about 25 June 2009 entered into by Avanti Launch Services Limited and the Launch Vehicle Agency to perform the Launch of the HYLAS Satellite.

"HYLAS Satellite" means the telecommunications spacecraft Ku and Ka band satellite system to be provided to Avanti Space Limited pursuant to the terms of the HYLAS Contract.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Insurances" means, in relation to the Chargor, all present and future contracts or policies of insurance of whatever nature (including, without limitation, any launch and in orbit insurance relating to the HYLAS Satellite) in which the Chargor from time to time has an interest.

"Intellectual Property" means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each member of the Group.

"Intellectual Property Rights" means all patents, trade marks, service marks, designs, design rights, utility models, business names, topographical or similar rights, copyrights, moral rights, database rights, rights in inventions, domain names, computer software, know how, trade secrets and confidential information and other intellectual property rights and any interests (including by way of licence) subsisting anywhere in the world in any of the foregoing (in each case whether registered or not and including all applications for the same) owned by the Chargor.

"Intercompany Indebtedness" means all indebtedness from time to time owing by any member of the Avanti Group to the Chargor pursuant to an intercompany loan agreement or other debt instrument.

"Investments" means:

- (a) the Shares and any other shares, stocks, debentures, bonds, notes, commercial paper, certificates of deposit, interests in collective investment schemes and other securities and investments of any kind whatsoever; and
- (b) all warrants, options or other rights to subscribe for, purchase or otherwise acquire any securities and investments,

in each case whether held directly by or to the order of the Chargor or by any custodian, nominee, fiduciary, clearance system or other similar person on its behalf (and all rights against any such person).

"Ka Band Licences" means all licences, authorisations, permits, approvals, exemptions, registrations and consents required (including, without limitation, as sub licences thereof or any replacement licences, permits, approvals and consents in substitution therefor) relating to the Ka band orbital slot and spectrum authorisations that the Group have or require with respect to the HYLAS Satellite as set out in the Avanti Licence Report and "Ka band Licence" means any of the foregoing.

"Ku Band Licences" means all licences, authorisations, permits, approvals, exemptions, registrations and consents required (including, without limitation, as sub licences thereof or any replacement licences, permits, approvals and consents in substitution therefor) relating to the Ku band orbital slot and spectrum authorisations that the Group have or require with respect to the HYLAS Satellite as set out in the Avanti Licence Report and "Ku band Licence" means any of the foregoing.

"Mandatory Prepayment Account" means an interest-bearing account:

- (a) held by the Borrower with the Facility Agent or Security Agent;
- (b) identified in a letter between the Borrower and the Facility Agent as a Mandatory Prepayment

Account;

(c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Facility Agent and Security Agent; and

(d) from which no withdrawals may be made by any member of the Group except as contemplated by this Agreement,

(as the same may be redesignated, substituted or replaced from time to time).

"Material Contract" means any contract entered into by the Borrower or any other member of the Group with a contract value in excess of £4,000,000 provided however the HYLAS LSA is a Material Contract for this purpose regardless of the contract value.

"Notice of Assignment" means a duly completed notice of assignment in the form set out in the relevant Part of Schedule 3 (*Forms of Notice and Acknowledgement of Assignment*) of the Debenture being:

- (a) Part IA, in the case of Insurances;
- (b) Part IIA, in the case of Assigned Accounts;
- (c) Part IIIA, in the case of Material Contracts;
- (d) Part IVA, in the case of Intercompany Indebtedness,

or in such other form as may be approved by the Security Agent.

"Parent" means Avanti Broadband Limited.

"Real Property" means any freehold or leasehold property in England and Wales, and all rights, easements and privileges from time to time attached or appurtenant thereto and all buildings, erections and Fixtures from time to time situated on or forming part of such freehold or leasehold property.

"Receiver" means any one or more receivers and/or managers or administrative receivers (whether appointed pursuant to the Debenture or pursuant to any statute, by a court or otherwise) of all or any of the Secured Assets and shall, where permitted by law, include an administrative receiver.

"Registered Intellectual Property Rights" means patents, petty patents, utility models, registered trade marks, registered designs and registered copyright, including applications for any of the same in any part of the world.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of all or any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies, proceeds or income paid or payable in respect of that asset.

"Secured Creditors" means each of the Finance Parties and any Receiver appointed under the Debenture.

"Security Period" means the period beginning on the date of the Debenture and ending on the date upon which the Security Agent is satisfied that:

- (a) none of the Secured Creditors is under any obligation (whether actual or contingent) to make advances or provide other financial accommodation to the Chargor under any of the Finance Documents; and
- (b) all Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

"Security Trust Deed" means the Security Trust Deed dated 23 July 2007 and made between the Security Agent, the Agent and the Lenders.

"Shares" means all shares in the capital of any member of the Group as identified in Part III Schedule 1 (*Shares*) of the Debenture and any other shares now or in the future legally or beneficially owned by the Chargor and/or any nominee on behalf of the Chargor excluding the Unrestricted Subsidiaries.

"Subsidiary" means:

(a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and policies of the entity whether through the ownership of voting capital, by contract or otherwise; or

(b) an entity treated as a subsidiary in the financial statements of any person pursuant to the Accounting Principles; and

excluding for all purposes the Unrestricted Subsidiaries.

"Transaction Security Document" has the meaning ascribed to it by the Facilities Agreement.

"Transfer Certificate" has the meaning ascribed to it by the Facilities Agreement.

"Unrestricted Subsidiaries" means Avanti Space (2) Limited and Avanti Space (3) Limited and their respective Subsidiaries.

"Utilisation Request" has the meaning ascribed to it by the Facilities Agreement.

"UK Chargors" means the Chargor, Avanti (NI) Limited and Avanti Broadband (Ire) Limited.



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

**COMPANY NO. 6580907
CHARGE NO. 1**

**THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A COMPOSITE DEBENTURE DATED
29 JULY 2009 AND CREATED BY AVANTI CALEDONIAN
BROADBAND LIMITED FOR SECURING ALL MONIES DUE OR
TO BECOME DUE FROM THE COMPANY, THE BORROWERS
AND THE GUARANTORS TO THE SECURED CREDITORS (OR
ANY OF THEM) 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
7 AUGUST 2009**

GIVEN AT COMPANIES HOUSE, CARDIFF THE 12 AUGUST 2009



Companies House
— for the record —



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**