

# M

COMPANIES FORM No. 395

000031/13

## 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

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

113

6865668

Name of company

\*insert full name of Company

\* CP Distribution 1 (GP) Limited in its own right and as the general partner of the limited partnership carrying on business under the name of Commercial Property Distribution Fund 1 (together the "**Chargor**")

Date of creation of the charge

24 September 2009

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

Security Agreement ("**Security Agreement**")

Amount secured by the mortgage or charge

4  
10  
All monies and liabilities now or after the date of the Security Agreement due, owing or incurred by the Chargor to the Developer under the Development Documents whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities in accordance with the terms of the Development Documents ("**Secured Obligations**").

All capitalised terms, except those defined elsewhere in this form 395, are defined at the Annexure.

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

GMD Developments Limited ("**Developer**") (company number 38349 Guernsey),  
PO Box 571, Regency Court, Gletegny Esplanade, St Peter Port, Guernsey

Postcode GY1 3ST

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

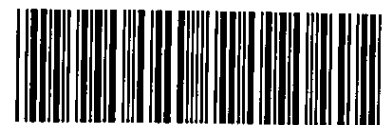
DLA Piper UK LLP  
101 Barbirolli Square  
Manchester  
M2 3DL

Ref: CWH/68511/120082/26585495.1

Time critical reference

For official Use (02/06)  
Mortgage Section

SATURDAY



\*ASDW7DSN\*

A45

03/10/2009

167

COMPANIES HOUSE

**1. General**

All Security created by the Chargor under clauses 4.2 to 4.5 of the Security Agreement inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the relevant Secured Asset; and
- (d) granted in favour of the Developer.

**2. First legal mortgages**

The Chargor charged by way of first legal mortgage:

- (a) the Properties;

and, in each case, all Premises and Fixtures on such property for the time being.

Particulars as to commission allowance or discount (note 3)

Nil

Signed



Date

2 October 2009

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

Please do not write in this margin

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

*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

Name of company

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## Addendum 1/4

1. Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

## Addendum 2/4

2. Amount due or owing on the mortgage or charge (continued)

## Addendum 3/4

3. Names, addresses and descriptions of the mortgages or persons entitled to the charge (continued)

## Addendum 4/4

4. Short particulars of all the property mortgaged or charged (continued)

**Assignments**

- (a) The Chargor assigned:
  - (i) the Relevant Agreements to which it is a party; and
  - (ii) the Relevant Policies to which it is a party.
- (b) The Chargor shall remain liable to perform all its obligations under the Relevant Agreements and the Relevant Policies.
- (c) Notwithstanding the other terms of clause 4.3 of the Security Agreement, prior to the occurrence of an Event of Default which is continuing, the Chargor may, subject to the other terms of the Development Documents, continue to exercise all and any of its rights under and in connection with the Relevant Agreements.

**4. First fixed charges**

The Chargor charged by first fixed charge:

- (a) all other interests and estates in the land at Downing Plaza, Gallowgate, Newcastle Upon Tyne;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together "**Chattels**") present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;

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- (f) the Investments together with all Related Rights;
- (g) all book and other debts due to the Chargor and their proceeds (both collected and uncollected) (together "**Debts**") and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (h) all monies from time to time standing to the credit of each Blocked Account;
- (i) all monies from time to time standing to the credit of each account held by the Chargor with any bank, building society, financial institution or other person other than any Blocked Account (each an "**Account**");
- (j) all its Intellectual Property;
- (k) all its goodwill and uncalled capital;
- (l) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them; and
- (m) to the extent that any legal mortgage in clause 4.2 of the Security Agreement or any assignment in clause 4.3 of the Security Agreement is ineffective as a legal mortgage or an assignment (as applicable), the assets referred to in that clause.

**5. Floating charge**

The Chargor charged by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 4.2, 4.3 or 4.4 of the Security Agreement.

**6. Qualifying floating charge**

The Security Agreement contains a qualifying floating charge and paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to the floating charge created by or under the Security Agreement.

**7. Negative pledge**

- 7.1 The Chargor shall not create or permit to subsist any Security over any of its assets.
- 7.2 The Chargor shall not:
  - (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor;
  - (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
  - (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- 7.3 Clauses 6 and 6.1 of the Security Agreement do not apply to any Security or arrangement which is Permitted Security.

Company number

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**8. Restrictions on disposals**

The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

CP DISTRIBUTION 1 (GP) LIMITED

ANNEXURE TO FORM M395

**Definitions**

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

**"ANTS"** means Abbey National Treasury Services plc;

**"Authorisation"** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission;

**"Blocked Account"** means:

- (a) the Deposit Account;
- (b) the Proceeds Account;
- (c) the Rent Account (as each of those terms is defined in the Facility Agreement); and
- (d) each other account designated as a Blocked Account by the Developer and the Chargor in writing;

**"Car Park"** means the spaces coloured blue and the service area coloured green on the plan attached to the Security Agreement;

**"Construction Agreement"** means the construction agreement between the Developer the Owner and GMD Investments Limited dated on or about the date of this Deed under which the Developer agrees to construct a 100,000 square feet office building at the Properties;

**"Development Documents"** means the Security Agreement, the Performance Security Agreement and the Construction Agreement;

**"Event of Default"** means:

- (a) the Chargor fails to pay or perform any of the Secured Obligations when due for payment or performance;
- (b) the Chargor commits a breach of any of the provisions of the Security Agreement;
- (c) the Chargor is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (d) the value of the assets of the Chargor is less than its liabilities (taking into account contingent and prospective liabilities);
- (e) a moratorium is declared in respect of any indebtedness of the

Chargor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium;

- (f) any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme or arrangement or otherwise) of the Chargor;
  - (ii) a composition, compromise, assignment or arrangement with the creditor of the Chargor;
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Chargor or any of its assets; or
  - (iv) enforcement of any Security over any assets of the Chargor,or any analogous procedure or step is taken in any jurisdiction;  
it shall not be an Event of Default if any winding-up petition is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised;
- (g) any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Chargor having an aggregate value of £100,000 or greater is not discharged within 14 days

**Facility Agreement** means the facility agreement between the Owner and ANTS and dated on or about the date of the Security Agreement under which ANTS agreed to make available to the Owner the Development Facility, VAT Facility and the Investment Facility (each as defined therein);

**Financial Indebtedness** is as defined in the Facility Agreement;

**Fixtures** means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery at the date of the Security Agreement or at any time after the date of the Security Agreement on that Secured Property;

**Hedging Agreement** is as defined in the Facility Agreement;

**Insurance Policies** means, in respect of a Chargor, all policies of insurance present and future in which it 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 the Chargor;

**"Investments"** means any shares, stocks, Security Agreement security, securities, bonds and investments of any type (other than the Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by the Chargor or by a trustee or clearance system or nominee;

**"Owner"** means the limited partnership carrying on business under the name of Commercial Property Distribution Fund 1;

**"Performance Security Agreement"** means a performance security agreement dated on or around the date of the Security Agreement made between (1) the Developer and (2) the Owner;

**"Permitted Security"** means:

- (a) any Security arising under the Security Agreement;
- (b) any Security permitted by the Developer in writing;
- (c) any lien arising by operation of law in the ordinary course of trading and not as a result of any default or omission by the Chargor; and
- (d) any Security granted in favour of ANTS;

**"Premises"** means any building on a Secured Property;

**"Properties"** means 1 Downing Plaza, Gallowgate, Newcastle upon Tyne as shown red on the plan attached to the Security Agreement and the Car Park;

**"Related Rights"** means, in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise);
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share; and
- (c) all rights derived from or incidental to that Investment or Subsidiary Share;

**"Relevant Agreement"** means:

- (a) each Hedging Agreement; and
- (b) each other agreement designated as a Relevant Agreement by the Developer and the Chargor in writing;

**"Relevant Policies"** means all Insurance Policies together with all monies payable in respect of those policies;



**"Secured Assets"** means, in respect of the Chargor, all of its assets and undertaking the subject of any Security created by, under or supplemental to, the Security Agreement in favour of the Developer;

**"Secured Property"** means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by or under the Security Agreement;

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

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 258 of CA 1985;

**"Subsidiary Shares"** means, in respect of the Chargor, all shares present and future held by it in its Subsidiaries;



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

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

**COMPANY NO. 6865668  
CHARGE NO. 3**

**THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED 24  
SEPTEMBER 2009 AND CREATED BY CP DISTRIBUTION 1 (GP)  
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME  
DUE FROM THE COMPANY TO GMD DEVELOPMENTS LIMITED  
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 3 OCTOBER  
2009**

**GIVEN AT COMPANIES HOUSE, CARDIFF THE 6 OCTOBER 2009**



*Companies House*  
— for the record —



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