

MG01

Particulars of a mortgage or charge

230060/65



iris
LASERFORM

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 for
particulars of a charge
company. To do this, please
use form MG01s

THURSDAY



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L139U6JV

23/02/2012

#110

COMPANIES HOUSE

For official use

2+

Filing in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

1

Company details

Company number

7 7 0 4 6 5 2

Company name in full

Cafe 2011 Finance 2 Limited (the **Chargor**)

2

Date of creation of charge

Date of creation

d 0 d 9 m 0 m 2 y 2 y 0 y 1 y 2

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

Deed of security over present and future assets between, among others, the **Chargor** and the
Security Agent (as defined below) (the **Deed**)

4

Amount secured

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

Amount secured

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 and each grantor of a security
interest to the Secured Parties (or any of them) under each or any of
the Finance Documents together with all costs, charges and
expenses incurred by any Secured Party in connection with the
protection, preservation or enforcement of its respective rights under
the Finance Documents or any other document evidencing or
securing any such liabilities, except for any obligation which, if it
were so included, would result in the Deed contravening Section
678 or 679 of the Companies Act 2006 (the **Secured Liabilities**)

Continuation page

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

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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	Cooperatieve Centrale Raiffeisen-Boerenleenbank B A (trading as
Address	Rabobank International), P O Box 17100, 3500 HG Utrecht,
	Croeselaan 18, 3521 CB (the Security Agent)
Postcode	3 5 2 1 C B
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 Please see the continuation pages

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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

A Cockburn

X

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

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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 Alexandra Cockburn

Company name Allen & Overy LLP

Address Barbara Strozzi laan 101

Post town Amsterdam

County/Region

Postcode

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Country The Netherlands

DX

Telephone +31 20 674 1000

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

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

1. CREATION OF SECURITY

1.1 General

(a) All the security created under the Deed

- (i) is created in favour of the Security Agent,
- (ii) is created over present and future assets of the Chargor,
- (iii) is security for the payment of all the Secured Liabilities, and
- (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994

(b) If the rights of the Chargor under a document cannot be secured without the consent of a party to that document

- (i) the Chargor must notify the Security Agent promptly,
- (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself, and
- (iii) unless the Security Agent otherwise requires, the Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under the Deed

(c) The Security Agent holds the benefit of the Deed on trust for the Secured Parties

1.2 Land

(a) The Chargor charges

- (i) by way of a first legal mortgage all estates or interests in any freehold or leasehold property in England and Wales now owned by it, this includes the real property (if any) specified in schedule 2 (Real Property) of the Senior Facilities Agreement under its name, and
- (ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of first fixed charge all estates or interests in any freehold or leasehold property

(b) A reference in subclause 2.2 of the Deed to a mortgage or charge of any freehold or leasehold property includes

- (i) all buildings, fixtures, fittings and fixed plant and machinery on that property, and
- (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants

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6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>1.3 Investments</p> <p>(a) The Chargor charges:</p> <p>(i) by way of a first legal mortgage all shares in any member of the Group (other than itself) owned by it or held by any nominee on its behalf, and</p> <p>(ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of a first fixed charge its interest in all shares, stocks, debentures, bonds or other securities and investments owned by it or held by any nominee on its behalf</p> <p>(b) A reference in subclause 2.3 of the Deed to a mortgage or charge of any stock, share, debenture, bond or other security includes</p> <p>(i) any dividend or interest paid or payable in relation to it, and</p> <p>(ii) any right, money or property accruing or offered at any time in relation to it by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise</p> <p>1.4 Plant and machinery</p> <p>The Chargor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession</p> <p>1.5 Restricted credit balances</p> <p>The Chargor charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any Restricted Account and the debt represented by it</p> <p>1.6 Insurances</p> <p>The Chargor charges by way of a first fixed charge, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest, including the policy or policies of insurance specified in schedule 7 (Insurances) of the Deed under its name</p> <p>1.7 Material contracts</p> <p>The Chargor charges by way of a first fixed charge, all of its rights in respect of the Material Contracts</p> <p>1.8 Intellectual property</p> <p>The Chargor charges by way of a first fixed charge, all of its rights in respect of.</p> <p>(a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right, this includes the patents and trademarks (if any) specified in schedule 5 (Specific Intellectual Property Rights) of the Senior Facilities Agreement under its</p>	

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Short particulars	<p>name,</p> <p>(b) any copyright or other intellectual property monopoly right; or</p> <p>(c) any interest (including by way of licence) in any of the above,</p> <p>in each case, whether registered or not and including all applications for the same</p> <p>1.9 Miscellaneous</p> <p>The Chargor charges by way of first fixed charge</p> <p>(a) any beneficial interest, claim or entitlement it has in any pension fund,</p> <p>(b) its goodwill,</p> <p>(c) the benefit of any authorization (statutory or otherwise) held in connection with its use of any Security Asset,</p> <p>(d) the right to recover and receive compensation which may be payable to it in respect of any authorization referred to in paragraph (c) above, and</p> <p>(e) its uncalled capital</p> <p>1.10 Floating charge</p> <p>(a) The Chargor charges by way of a first floating charge all its assets not at any time otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under clause 2 of the Deed</p> <p>(b) Except as provided below, the Security Agent may by notice to the Chargor convert the floating charge created by the Chargor under subclause 2 10 of the Deed into a fixed charge as regards any of the Chargor's assets specified in that notice, if</p> <p>(i) an Event of Default is outstanding, or</p> <p>(ii) the Security Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy</p> <p>(c) The floating charge created by subclause 2 10 of the Deed may not be converted into a fixed charge solely by reason of</p> <p>(i) the obtaining of a moratorium, or</p> <p>(ii) anything done with a view to obtaining a moratorium,</p> <p>under the Insolvency Act 2000</p> <p>(d) The floating charge created by subclause 2.10 of the Deed will automatically convert into a fixed charge over all of the Chargor's assets if an administrator is appointed or the Security</p>	

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6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

Agent receives notice of an intention to appoint an administrator

- (e) The floating charge created by subclause 2 10 of the Deed is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986

2. RESTRICTIONS ON DEALINGS

The Chargor may not

- (a) create or permit to subsist any Security Interest on any Security Asset, or
 - (b) sell, transfer, license, lease or otherwise dispose of any Security Asset,
- except as expressly allowed under the Finance Documents

In this MG01

Additional Obligor means a member of the Group which becomes a party to the Intercreditor Agreement after the date of the Intercreditor Agreement

Account Bank means, in relation to a Restricted Account, the bank with which the Restricted Account is maintained

Affiliate has the meaning given to it in the Senior Facilities Agreement

Ancillary Facility means any ancillary facility made available by an Ancillary Lender in accordance with clause 9 (Ancillary Facilities) of the Senior Facilities Agreement

Ancillary Lender means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with clause 9 (Ancillary Facilities) of the Senior Facilities Agreement

Arrangers means each of

- (a) Allied Irish Bank Plc;
- (b) Bank of Ireland Plc,
- (c) ING Bank N V , and
- (d) the Co-ordinating Mandated Lead Arranger

Company means Cafe 2011 Finance 3 Limited

Constitutional Documents means the deed of incorporation (*akte van oprichting*) and the articles of association (*statuten*) of the Parent

Co-ordinating Mandated Lead Arranger means Coöperatieve Centrale Raiffeisen-Boerenleenbank B A (trading as Rabobank International).

Delegate means any delegate, agent, attorney or co-trustee appointed by the Security Agent

Effective Date means 12 January 2012

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	Please give the short particulars of the property mortgaged or charged
Short particulars	<p>Event of Default means any event of circumstance specified in clause 28 of the Senior Facilities Agreement or clause 24 of the Mezzanine Facility Agreement.</p> <p>Facility Agent means Cooperatieve Centrale Raiffeisen-Boerenleenbank B A (trading as Rabobank International)</p> <p>Finance Document means</p> <ul style="list-style-type: none"> (a) a Senior Finance Document, or (b) a Mezzanine Finance Document <p>Finance Party means the Facility Agent, each Arranger, the Security Agent, a Lender, the Issuing Bank, a Hedge Counterparty or any Ancillary Lender provided that where the term "Finance Party" is used in, and construed for the purpose of this MG01, a Hedge Counterparty shall be a Finance Party only for the purposes of the definition of "Secured Parties "</p> <p>Group means the Parent and each of its Subsidiaries for the time being, including, without limitation, the Company</p> <p>Hedge Counterparty means each person who becomes a Party (as defined in the Intercreditor Agreement) under clause 8 1 (Hedge Counterparties) of the Intercreditor Agreement</p> <p>Holdco means</p> <ul style="list-style-type: none"> (a) Cafe 2011 Holdings Limited, and (b) Café 2011 Finance 1 Limited, <p>and each party that becomes a party to the Intercreditor Agreement as a Holdco</p> <p>Intercreditor Agreement means the intercreditor agreement originally dated 20 December 2007 and made between, amongst others, the Parent, the Original Obligors, the Holdcos, the Senior Creditors, the Mezzanine Creditors, the Investor and Cooperatieve Raiffeisen-Boerenleenbank B A. (trading as Rabobank International) as Senior Agent, Mezzanine Agent and the Security Agent as amended on 12 January 2012 and as amended and as amended and restated from time to time.</p> <p>Investor means Coffee2008 Investments SCA and any subsequent successors or assigns or transferees</p> <p>Investor Debt means all Liabilities payable or owing by any Holdco or Obligor to the Investor under or in connection with the Investor Documents</p> <p>Investor Documents means</p> <ul style="list-style-type: none"> (a) the Constitutional Documents, (b) this Intercreditor Agreement, (c) the Investor Loan;

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Short particulars	<p data-bbox="309 338 1023 367">Please give the short particulars of the property mortgaged or charged</p> <p data-bbox="309 454 1528 640"> (d) the Subordinated Investor Loan, (e) any document, agreement (whether or not evidenced in writing) or account record providing the payment of any amount by any Holdco or Obligor to the Investor; and (b) any other document designated as such by the Security Agent and the Investor </p> <p data-bbox="309 674 1528 768">Investor Loan means the €35,962,000 loan agreement dated on the date of the Senior Facilities Agreement between the Investor and Café2008 Holdings B V and novated on the Effective Date such that Café 2011 Holdings Limited is the borrower</p> <p data-bbox="309 801 1528 960">Issuing Bank means each Lender identified as an issuing bank and any other Lender which has notified the Facility Agent that it has agreed to the Parent's request to be an Issuing Bank pursuant to the terms of the Senior Facilities Agreement provided that, in respect of a Letter of Credit issued or to be issued pursuant to the terms of the Senior Facilities Agreement, the Issuing Bank shall be the Issuing Bank which has issued or agreed to issue that Letter of Credit.</p> <p data-bbox="309 994 485 1021">Lender means</p> <p data-bbox="309 1055 1528 1214"> (a) any Original Lender, and (b) any bank, financial institution, trust, fund or other entity which has become a Party (as defined in the Senior Facilities Agreement) as a Lender in accordance with clause 2 2 (Increase) or clause 29 (Changes to the Lenders) of the Senior Facilities Agreement, </p> <p data-bbox="309 1247 1528 1305">which in each case has not ceased to be a Lender in accordance with the terms of this Senior Facilities Agreement</p> <p data-bbox="309 1339 1249 1368">Letter of Credit has the meaning given to it in the Senior Facilities Agreement</p> <p data-bbox="309 1402 1528 1460">Liability means any present or future liability (actual or contingent), including accrued interest and, if applicable, Mandatory Costs together with</p> <p data-bbox="309 1494 1528 1904"> (a) any refinancing, deferral or extension of that liability, (b) any further advance which may be made under any agreement expressed to be supplemental to any document in respect of that liability, together with all related interest, fees and costs, (c) any claim for damages or restitution in the event of rescission of that liability or otherwise, (d) any claim flowing from any recovery by a payment or discharge in respect of that liability on the grounds of preference or otherwise, and (e) 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 </p> <p data-bbox="309 1937 1528 1995">Mandatory Cost means the percentage rate per annum calculated by the Facility Agent in accordance with schedule 4 (Mandatory Cost Formula) of the Senior Facilities Agreement</p>

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Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

Material Contracts means all claims against members of the Group.

Mezzanine Agent means Cooperatieve Centrale Raiffeisen-Boerenleenbank B A (trading as Rabobank International)

Mezzanine Creditor means a Finance Party under and as defined in the Mezzanine Facility Agreement

Mezzanine Facility Agreement means the mezzanine facility agreement originally dated 20 December 2007, as amended and restated 11 January 2008, amended 17 June 2009 and further amended and restated 12 January 2012 between, among others, the Obligor (as defined in the Mezzanine Facility Agreement) and the Mezzanine Creditors

Mezzanine Finance Document means a Mezzanine Finance Document as defined in the Senior Facilities Agreement

Obligor means:

- (a) an Original Obligor,
- (b) an Additional Obligor, and/or
- (c) with respect to obligations in respect of Investor Debt, a Holdco

Original Lender means each of the financial institutions listed in Part 5 of Schedule 1 of the Senior Facilities Agreement as lenders

Original Obligor means Café2008 Netherlands B V. or Café2008 B V .

Parent means Café 2011 Finance 2 Limited

Receiver means an administrative receiver (if allowed by law), receiver and manager or a receiver, in each case appointed under the Deed

Restricted Account means the bank accounts listed in schedule 4 (Accounts) of the Deed and includes:

- (a) if there is a change of Account Bank, any account into which all or part of a credit balance from a Restricted Account is transferred, and
- (b) any account which is a successor to a Restricted Account on any re-numbering or re-designation of accounts and any account into which all or part of a balance from a Restricted Account is transferred for investment or administrative purposes

Secured Parties means each Finance Party from time to time party to the Senior Facilities Agreement Agreement, any Receiver or Delegate, and each agent and lender from time to time party to the Mezzanine Facility Agreement

Security means any security created by the Deed

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	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>Security Assets means all assets of the Chargor the subject of any security created by the Deed</p> <p>Security Interest means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect</p> <p>Senior Agent means Cooperatieve Centrale Raiffeisen-Boerenleenbank B A (trading as Rabobank International)</p> <p>Senior Creditor has the meaning given to the term Finance Party in the Senior Facilities Agreement</p> <p>Senior Facilities Agreement means the senior multicurrency term and revolving facilities agreement originally dated 20 December 2007, as amended and restated on 11 January 2008, amended 17 June 2009 and amended and restated 12 January 2012 between, among others, the Obligors and the Senior Creditors</p> <p>Senior Finance Document means a Finance Document as defined in the Senior Facilities Agreement</p> <p>Subordinated Investor Loan means the subordinated EUR35,359,000 loan agreement dated on the date of the Senior Facilities Agreement between the Investor and Café2008 Holdings B V. and novated on the Effective Date such that Café 2011 Holdings Limited is the borrower</p> <p>Subsidiary means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50% of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise</p>	

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



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

**COMPANY NO. 7704652
CHARGE NO. 2**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEED OF SECURITY OVER
PRESENT AND FUTURE ASSETS DATED 9 FEBRUARY 2012 AND
CREATED BY CAFE 2011 FINANCE 2 LIMITED FOR SECURING
ALL MONIES DUE OR TO BECOME DUE FROM EACH OBLIGOR
AND EACH GRANTOR OF A SECURITY INTEREST TO THE
SECURED PARTIES (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 25 OF THE
COMPANIES ACT 2006 ON THE 23 FEBRUARY 2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 28 FEBRUARY
2012

*P (Air
mil)*



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES