

MG01

Particulars of a mortgage or charge

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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

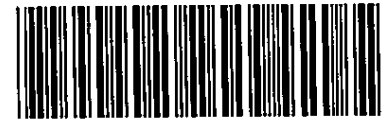
You may use this form to register
particulars of a mortgage or charge
in England and Wales or Northern
Ireland



What this form is NOT for

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

MONDAY



AVVUHYNNW

A14

24/10/2011

85

COMPANIES HOUSE

1

Company details

Company number

0 7 7 2 9 5 1 4

Company name in full

Frimley Topco Limited ("Chargor")

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

d1 d4 m1 m0 y2 y0 y1 y1

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

Debenture dated 14 October 2011 between (1) the Chargor and (2) Indigo
Capital V S a r l ("Chargee") ("Debenture")

4

Amount secured

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

Amount secured

4
1
6
All present and future obligations and liabilities,
whether actual or contingent and whether owed
jointly or severally, as principal or surety and/or
in any other capacity whatsoever, owed by the
Chargor to the Chargee under the Finance Documents
together with all costs, charges and expenses
incurred by the Chargee in connection with the
protection, preservation or enforcement of its
respective rights against the Chargor ("Secured
Obligations")

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 Indigo Capital V S.a.r.l

Address c/o Indigo Capital LLP, 30 King Street

London

Postcode E C 2 V 8 E H

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

Grant of Security**1. Charges**

1.1 The Chargor with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 has charged in favour of the Chargee as continuing security for the payment and discharge of the Secured Obligations

- (a) by way of legal mortgage, the Real Property,
- (b) by way of fixed charge, any Real Property at any time on or after the date of the Debenture belonging to the Chargor (other than property charged under clause 1.1 (a) above),
- (c) by way of fixed charge, all Plant and Machinery owned by it and its interest in any Plant and Machinery in its possession,
- (d) by way of fixed charge, other than those validly and effectively assigned under clause 2 below
 - (i) all present and future Investments other than its Investments in the Target to the extent any such charge is prohibited by the Development and Franchise Agreement,
 - (ii) all Investment Derivative Rights,
 - (iii) where any Investment is held in a system for the deposit and settlement of transactions in investments, all rights against the operator of such system or any participant in respect of such Investment,

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

None

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 JUA Piper UK Wf 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 Emma Thompson (318052/2)

Company name DLA Piper UK LLP

Address Princes Exchange

Princes Square

LEEDS

Post town

County/Region

Postcode L S 1 4 B Y

Country

DX DX 12017 LEEDS

Telephone 08700 111 111



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

MG01 - continuation page

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

- (e) by way of fixed charge, all present and future Intellectual Property Rights,
- (f) by way of fixed charge, the goodwill of the Chargor,
- (g) by way of fixed charge, the uncalled capital of the Chargor,
- (h) by way of fixed charge, all rights, interests and claims in the Insurance Policies, other than those validly and effectively assigned under clause 2 below,
- (i) by way of fixed charge, all rights, interests and claims in the Material Contracts, other than those validly and effectively assigned under clause 2 below,
- (j) by way of fixed charge, the benefits of all licences, consents and authorisations held in connection with its business or the use of any Charged Property, and the right to any compensation in respect of any of them,
- (k) by way of fixed charge, all rights, interests and claims in any pension fund now or in the future, and
- (l) by way of floating charge, the whole of the Chargor's undertaking and assets, present and future other than any assets validly and effectively mortgaged, charged or assigned by way of security (whether at law or in equity) by the Debenture or Investments in the Target to the extent any such charge is prohibited under the Development and Franchise Agreement ("**Floating Charge Property**")

1.2 Qualifying Floating Charge

Paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to any floating charge created by the Debenture and the floating charge created under the Debenture is a "qualifying floating charge" for these purposes.

2. Security Assignment

- (a) The Chargor with full title guarantee has assigned to the Chargee as continuing security for the payment and discharge of the Secured Obligations all of its rights, title, interest and benefit from time to time in and to the
 - (i) Material Contracts,
 - (ii) Insurance Policies,
 - (iii) Investments; and
 - (iv) Receivables
- (b) To the extent that any right described in clause 2(a)(i) above is not assignable or capable of assignment, the assignment of that right purported to be effected by clause 2(a)(i) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right

MG01 - continuation page

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	<p>3. Further assurance</p> <p>The Chargor shall, at its own expense, promptly take whatever action the Chargee may require for</p> <ul style="list-style-type: none"> (a) creating, perfecting or protecting the Security intended to be created by the Debenture, and (b) facilitating the realisation of any of the Charged Property or the exercise of any right, power or discretion exercisable by the Chargee or any Receiver in respect of any of the Charged Property, <p>including the execution of any security or other document (in such form as the Chargee may reasonably require), the giving or any notice and the making of any registration which the Chargee may think expedient</p> <p>4. Restrictive Covenants</p> <p>The Chargor shall</p> <ul style="list-style-type: none"> (a) not, except with the prior written consent of the Chargee (such consent not to be unreasonably withheld or delayed), enter into any onerous or restrictive obligation affecting any of the Charged Property, (b) not do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Property, (c) not, except with the prior written consent of the Chargee or as expressly permitted under the Facilities Agreement, confer on any person (or agree to confer on any person) <ul style="list-style-type: none"> (i) any lease or tenancy of any of the Real Property or accept a surrender of any lease or tenancy (whether independently or under any statutory power), (ii) any right or licence to occupy any land or buildings forming part of the Real Property, or (iii) any licence to assign or sub-let any part of the Real Property, (d) not carry out any development within the meaning of section 55 of the Town and Country Planning Act 1990 without first obtaining such permissions as may be required under applicable legislation, (e) not do or permit to be done anything as a result of which any lease may be liable to forfeiture or otherwise be determined, (f) not make any material alterations or additions to any Plant and Machinery which are reasonably likely to depreciate, jeopardise or prejudice their value or 	

MG01 - continuation page

Particulars of a mortgage or charge

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Short particulars	<p>marketability,</p> <p>(g) not do or knowingly permit to be done or knowingly omit to do anything which may render any insurance void, voidable or unenforceable (in whole or in part) nor vary, amend or terminate any policy of insurance,</p> <p>(h) not change the specification referred to in any of its registrations of Intellectual Property Rights or permit any disclaimer, condition, restriction, memorandum or other thing to be entered on the registration of any of the trade marks comprised within such Intellectual Property Rights, the effect of which will be to materially and adversely affect the value of such trademarks,</p> <p>(i) not grant any licence to any person to use its Intellectual Property Rights in any manner which will materially and adversely affect the value of such Intellectual Property Rights,</p> <p>(j) not, without the prior written consent of the Chargee, initiate or agree to any amendment to, waive any obligation under or agree to any termination of any Material Contract except</p> <p style="padding-left: 40px;">(i) to correct a manifest error, or</p> <p style="padding-left: 40px;">(ii) in a way which could not be reasonably expected to materially and adversely affect the interests of the Chargee,</p> <p>(k) not, without the prior written consent of the Chargee, change its centre of main interest (as that expression is used in Article 3(1) of the EU Regulation) to somewhere other than England and Wales, nor will it have any establishment (as that term is used in Article 2(h) of the EU Regulation) in any other jurisdiction, and</p> <p>(l) not call up, or receive in advance of its due date, any uncalled capital</p> <p>5. Receiver</p> <p>The Debenture contains the power to appoint a Receiver of the whole or any part of the Charged Property</p> <p>6. Power of Attorney</p> <p>The Debenture contains a power of attorney in favour of the Chargee, each person to whom the Chargee shall from time to time have delegated the exercise of the power of attorney and any Receiver</p> <p>7. Negative Pledge</p> <p>(a) The Chargor shall not create or permit to subsist any Security over any of the Charged Property, other than as permitted under the Facilities Agreement</p> <p>(b) 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, discount,</p>

MG01 - continuation page

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	Please give the short particulars of the property mortgaged or charged
Short particulars	<p style="text-align: center;">factor, transfer, assign, lease, lend or otherwise dispose of any of the Charged Property other than as permitted under the Finance Documents</p> <p>Definitions</p> <p>"Alcuin" means The Third Alcuin Fund LP or any other fund that is managed and advised by Alcuin Capital Partners LLP</p> <p>"Charged Property" means all the assets of the Chargor which from time to time are the subject of the security created or expressed to be created in favour of the Chargee by or pursuant to the Debenture</p> <p>"Debenture" means the Debenture and the debenture granted to the Chargee by Frimley Bidco Limited (company number 07730980) dated 14 October 2011</p> <p>"Development and Franchise Agreement" means the development and franchise agreement between the Target, Krispy Kreme Doughnut Corporation and Hot Doughnuts Now International Ltd originally dated 13 November 2002 as amended and restated in May 2006 and as further amended on or about the date of the Facilities Agreement.</p> <p>"Facilities Agreement" means the facilities agreement dated on or about the date of the Debenture and made between the Chargee and Frimley Bidco Limited relating to sterling term loan facilities</p> <p>"Fee Letter" means any letter or letters dated on or about the date of the Facilities Agreement between the Chargee and Frimley Bidco Limited</p> <p>"Finance Document" means the Facilities Agreement, the Intercreditor Deed, the Santander Notice Letter, the Debentures, the Guarantee, the Utilisation Request, each Fee Letter and any other document designated as such by the Chargee and the Chargor</p> <p>"Guarantee" means the cross guarantee granted to the Chargee by the Chargor and Frimley Bidco Limited and dated on or about the date of the Facilities Agreement</p> <p>"Insurance Policy" means any policy of insurance and cover note in which the Chargor may from time to time have an interest, excluding any policies of insurance to the extent that they relate to liabilities to third parties</p> <p>"Intellectual Property Rights" means</p> <ul style="list-style-type: none"> (a) all present and future patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, (b) the benefit of all applications and rights to use such assets, and (c) all Related Rights <p>"Intercreditor Deed" means the intercreditor deed dated on or about the date of the Facilities Agreement and made between, amongst others, (1) Frimley Bidco Limited, (2) the Chargee, (3)</p>

MG01 - continuation page

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Please give the short particulars of the property mortgaged or charged

Short particulars

Alcum and (4) the Vendors.

"Investment Derivative Rights" means all dividends, interest or distributions and all other rights and benefits of an income nature accruing at any time in respect of any Investment

"Investments" means

- (a) any stocks, shares, debentures, bonds, warrants or other securities, whether held directly by or to the order of the Chargor or by any trustee, fiduciary or clearance system on its behalf, and
- (b) all Related Rights (including all rights against any trustee, fiduciary or clearance system)

"Material Contracts" means

- (a) the agreements (if any) listed in schedule 1 of the Debenture,
- (b) any other contract entered into by the Chargor that may from time to time be identified in writing by the Chargee (acting reasonably) as a 'Material Contract', and
- (c) all Related Rights

"Plant and Machinery" means

- (a) all equipment, machinery, plant, computers, office equipment, vehicles and all other assets of a similar nature which at any time on or after the date of the Debenture become, the property of the Chargor, and
- (b) all Related Rights

"Real Property" means

- (a) any freehold, leasehold (other than Short Leasehold Properties) or other immovable property (including the property (if any) specified in schedule 1 of the Debenture),
- (b) any buildings, fixtures or fittings from time to time situated on or forming part of such property (including any trade textures and fittings), and
- (c) all Related Rights

"Receivables" means

- (a) all present and future book and other debts and monetary claims owing to a Chargor, and
- (b) all Related Rights.

"Receiver" means a receiver, manager, administrator or administrative receiver appointed pursuant to the provisions of the Debenture or any applicable law

MG01 - continuation page

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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>"Related Rights" means, in relation to any asset</p> <ul style="list-style-type: none"> (a) the proceeds of sale of 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, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset, and (d) any income, moneys and proceeds paid or payable in respect of that asset <p>"Santander" means Santander UK PLC</p> <p>"Santander Notice Letter" means the letter dated on or about the date of the Facilities Agreement and made between (1) the Chargee, (2) Santander and (3) the Target</p> <p>"Security" means the security constituted in the Debenture</p> <p>"Short Leasehold Properties" means all leasehold properties with a term of less than 15 years unexpired at the date of the acquisition of the lease (whether registered or unregistered) owned by the Chargor</p> <p>"Target" means Krispy Kreme U K Limited (company number 04532445)</p> <p>"Utilisation Request" means the notice substantially in the form set out in schedule 2 of the Facilities Agreement</p> <p>"Vendors" means Cheshire & Kent LLC, Donald Henshall, Richard Cheshire, Robert Hunt and Judith Denby</p>	



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

**COMPANY NO. 7729514
CHARGE NO. 1**

**THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEBENTURE DATED 14 OCTOBER
2011 AND CREATED BY FRIMLEY TOPCO LIMITED FOR
SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE
COMPANY TO INDIGO CAPITAL V S.A.R.L. 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 24 OCTOBER 2011**

**GIVEN AT COMPANIES HOUSE, CARDIFF THE 27 OCTOBER
2011**

OK



Companies House
— for the record —



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