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in black type, or
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*insert full name
of company

COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies

For official use

Company number

151

00610095

Name of company

* Waterstone's Booksellers Limited

Date of creation of the charge

22 May 1998

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

Amendment Deed to a Debenture dated 28 March 1998 as amended and restated on 14 May 1998 (the 'Amended and Restated Debenture')

Amount secured by the mortgage or charge

Please see Part I of the Schedule attached

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

EMI Group plc (as Security Agent for itself and EMI Group Finance plc)
4 Tenterden Street
London W1A 2AY

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

Rowe & Maw
20 Black Friars Lane
LONDON
EC4V 6HD

445/00012.10037(528626v3)

Time critical reference

For official use
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

Please see Part II of the Schedule attached

The charges created by the Amended and Restated Debenture are further qualified by the covenants set out in Part III of the Schedule attached and should be read together

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

Particulars as to commission allowance or discount (note 3)

N/A

Signed

Rowe & Maw

Date

3 June 1998

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

[†] 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.

Waterstone's Booksellers Limited

Company Number 00610095

Schedule to Form M395

Part I

Amount secured by the charge

Each and every liability which the Company may now or hereafter have to the Security Agent (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries (and whether solely or jointly with one or more persons and whether as principal or as surety) under or pursuant to the Finance Documents (including the Amended and Restated Debenture) including any liability in respect of any further advances made thereunder and pay to the Security Agent when due and payable every sum (of principal, interest or otherwise) now or hereafter owing, due or incurred by the Company to the Security Agent (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries in respect of any such liabilities Provided that:

- (a) there shall be excluded from the foregoing covenant any liability or sum which would, but for this proviso, cause such covenant or the security which would otherwise be constituted by the Amended and Restated Debenture for such liability or sum to constitute unlawful financial assistance prohibited by Section 151 of the Companies Act 1985 or equivalent legislation in Northern Ireland; and
- (b) every payment by the Company of any sum in respect of the liabilities herein covenanted to be discharged by the Company to or for the account of the Beneficiary to whom the same is due and payable which is made in accordance with the terms of the Finance Documents under which such sum is payable to such Beneficiary shall operate in satisfaction pro tanto of such covenant.

Part II

Short particulars of the property charged

The Company by the Amended and Restated Debenture:

FIXED CHARGES

- (b) charges in favour of the Security Agent as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of fixed charge (which so

far as it relates to land in England and Wales vested in the Company at the date of the Amended and Restated Debenture shall be a charge by way of legal mortgage) each of the following, namely:

(i) **Principal Property**

the Principal Property specified in the First Schedule to the Amended and Restated Debenture other than (a) any heritable or leasehold property in Scotland and all buildings, trade and other fixtures, fixed plant, machinery, installations and apparatus from time to time on any such property in Scotland and (b) any Principal Property in Northern Ireland;

(ii) **Accounts with the Senior Security Agent**

all rights and claims to which the Company is now or may hereafter become entitled in relation to all moneys now or at any time hereafter standing to the credit of any bank accounts opened or maintained with the Senior Security Agent together with all rights relating or attaching thereto (including the right to interest).

EQUITABLE CHARGES

- (c) charges by way of equitable charge any equitable interests in the Principal Property specified in the First Schedule to the Amended and Restated Debenture.

ASSIGNMENTS

- (d) assigns to the Security Agent as trustee for the Beneficiaries all the Company's right, title and interest in and to each of the following:

(i) **Property Rights**

- (aa) all rights and claims to which the Company is now or may hereafter become entitled in relation to the Principal Property including those against any manufacturer, supplier or installer of such property, any builder, contractor or professional adviser engaged in relation to any such property and any lessee, sub-lessee or licensee of any of the Principal Property and any guarantor or surety for the obligations of such person, the rights under the hiring, leasing or rental contract and any guarantee, indemnity or security for the performance of the obligations of such person and any other rights and benefits relating thereto;

- (bb) the benefit of the Agreements for Sale and Agreements for Lease to which the Company is party and all the proceeds of any payment of any claims, awards, judgments, sums or damages arising out of such Agreements payable to the Company thereunder and all the Company's rights or remedies now or hereafter in existence arising thereunder;
- (cc) the benefit of all covenants, agreements, undertakings or obligations entered into by any other party to any Lease to which the Company is party or to any licences, deeds, rent deposit agreements or other deeds or documents supplemental or collateral to any such Lease and of all guarantees or indemnities in any of the aforesaid;

(ii) **Insurance**

all rights and claims to which the Company is now or may hereafter become entitled in relation to the proceeds of any of the Insurance Policies;

(iii) **Debts**

all present and future book and other debts and monetary claims now or at any time hereafter due or owing to the Company which are not otherwise subject to a fixed charge or assigned (whether at law or in equity) to the Security Agent by or pursuant to the Amended and Restated Debenture and all rights relating thereto including any security or remedies therefor;

(iv) **Accounts with another bank**

all rights and claims to which the Company is now or may hereafter become entitled in relation to all moneys now or at any time hereafter standing to the credit of any bank accounts opened or maintained with a bank other than the Senior Security Agent and all rights relating or attaching thereto (including the right to interest) as well as any VAT recoveries due to the Company;

(v) **Section 238, 239 and 244 orders**

all rights to which the Company is now or may hereafter become entitled in respect of the proceeds of any order of the court made pursuant to sections 238(3), 239(3) or 244 of the Insolvency Act 1986; and

(vi) **Subsidiary Shares**

all Subsidiary Shares.

FLOATING CHARGE

- (d) charges in favour of the Security Agent as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of floating charge the whole of the Company's undertaking and assets, present and future, other than any assets for the time being effectively charged to the Security Agent by way of fixed charge as described above and any bank accounts in which cash is deposited by way of equitable charge as described above, or effectively assigned (whether at law or in equity) to the Security Agent as described above or otherwise subject to an effective fixed security in favour of the Security Agent and including any heritable, leasehold or corporeal moveable property in Scotland where such property is hereby charged by way of floating charge.

Part III

Covenants

The Company shall not, and shall procure that no Group Entity shall, without the prior written consent of an Instructing Group (as defined in the Senior Facility Agreement), create (or agree to create) or permit to subsist any Encumbrance over all or any of its present or future revenues or assets or undertaking other than a Permitted Encumbrance (as defined in the Senior Facility Agreement).

The Company hereby undertakes, save as permitted under the Senior Facility Documents, that at no time during the subsistence of the Security will the Company, except with the prior written consent of the Security Agent dispose or enter into any binding agreement to dispose of, or create or enter into any binding agreement to create, any legal or equitable estate or interest in or over, or relating to the enjoyment of, all or any part of the Charged Property or grant or agree to grant any licence or consent, whether expressly or by conduct, for assignment, parting with or sharing possession or occupation, underletting, change of use or alterations in relation to any lease to which any of the Charged Property may from time to time be subject and the Company will procure that no person shall become entitled to assert any proprietary interest or right over, or which may affect the value of, any of the Charged Property where, in the case of any of the foregoing, to do so would have a Material Adverse Effect.

The Company shall from time to time, at the request of the Security Agent, do any act or execute in favour of the Security Agent or as it may direct such further or other legal or other assignments, transfers, mortgages, standard securities, charges or securities as in each case the Security Agent shall (acting reasonably) stipulate, in such form as the Security Agent may

reasonably require, for the improvement or perfection of the security intended to be conferred on the Security Agent by or pursuant to the Amended and Restated Debenture including any act or any document which may be required or desirable under the laws of any jurisdiction in which any property and assets may be located in order to confer on the Security Agent security over such property and assets equivalent or similar to the security intended to be conferred by or pursuant to the Amended and Restated Debenture or to facilitate the realisation thereof or the exercise of any and all powers, authorities and discretions intended to be vested in the Security Agent or any Receiver by or pursuant to the Amended and Restated Debenture.

Part IV

Definitions

In this Schedule:

"Agreed Criteria" means each of the following criteria (which have been agreed between the Company and the Security Agent in order to determine the category of property to be specified as Principal Property in the First Schedule to the Amended and Restated Debenture which criteria should also be used in order to determine whether any after acquired property should also become Principal Property):

- (a) any flagship properties (being those properties which are so identified with the business of the Group and its image, in respect of which it should be damaging to the Group if there was a problem in the title to such a property;
- (b) profit centres (being those retail stores which would generate a materially disproportionately high level of profit for the Group calculated on a square footage basis and despite the fact that such properties are not particularly valuable properties in their own right);
- (c) properties with a rental in excess of £200,000 per annum;
- (d) properties which are leasehold where the term exceeds 25 years as granted;
- (e) any properties in respect of which the Company owns the freehold;
- (f) leases which have a turnover rent linked to the sales at any retail outlet;
- (g) any head office of the Group named or to be named in the annual report of a Group Entity;

"Agreements for Lease" means (severally) all agreements, contracts, options or undertakings whether now or hereafter in existence for or relating to the creation of any estate, interest or right in or over the Principal Property or any part thereof (including without limitation any lease, licence, tenancy or right to occupy whether on a fixed term or periodic basis and whether in all cases in respect of the whole or any part of the Principal Property).

"Agreements for Sale" means (severally) all agreements, contracts or options now or hereafter in existence for or in relation to the assignment or transfer or disposal by way of sale of the whole or any part of or for or in relation to the creation of any estate or interest in the Principal Property or any part thereof upon the sale thereof or in relation to or under which any capital sum is or is to be derived from the Principal Property or any part thereof.

"Amended and Restated Debenture" means the Debenture dated 28 March 1998 and made by the Company in favour of EMI as amended and restated by an Amendment and Restatement Deed dated 14 May 1998.

"Beneficiaries" means EMI and EMI Finance, and **"Beneficiary"** means either of them.

"Charged Property" means, subject to any contrary indication, the undertaking and assets of the Company from time to time charged in favour of, or assigned (whether at law or in equity) to, the Security Agent by or pursuant to the Amended and Restated Debenture.

"Company" means Waterstone's Booksellers Limited, registered with company number 00610095.

"EMI" means EMI Group plc (registered number 229231) whose registered office is at 4 Tenterden Street, London W1A 2AY.

"EMI Bridge Facility Documents" means all and any of the EMI Bridge Renewed Commitment Letter, the EMI Initial Bridge Facility Agreement, each Further Bridge Facility Agreement, the EMI Bridge Facility Guarantees, the EMI Facilities Counter-Indemnity, the Amended and Restated Debenture, any other document from time to time designated by the Company and EMI as an EMI Bridge Facility Document and the Security Documents.

"EMI Bridge Facility Guarantees" has the meaning given to it in the EMI Bridge Renewed Commitment Letter.

"EMI Bridge Renewed Commitment Letter" means a letter from EMI to the Company dated 28 March 1998 headed "Project Agua - EMI Bridge Renewed Commitment Letter" by which EMI has, subject to the terms of that letter, agreed to provide, or procure the provision of certain bridging facilities to the Company.

"EMI Facilities Counter-Indemnity" means a deed of counter-indemnity made by the Company dated 28 March 1998 creating an express counter-indemnity in favour of EMI in respect of the EMI Bridge Facility Guarantees and the EMI Working Capital Sub-Facility Guarantees

"EMI £50m Working Capital Facility Agreement" means the agreement constituted by a letter from EMI to the Company dated 28 March 1998 in relation to facilities of up to £50,000,000 (fifty million pounds sterling) by which EMI has, subject to the terms of that letter, agreed to provide, or procure the provision of working capital facilities to the Company, and the Company's acceptance of it.

"EMI Finance" means EMI Group Finance plc (registered number 806281) whose registered office is at 4 Tenterden Street, London W1A 2AY.

"EMI Initial Bridge Facility Agreement" has the meaning given to it in the EMI Bridge Renewed Commitment Letter.

"EMI Working Capital Facility Documents" means all and any of the EMI £50m Working Capital Facility Agreement, the EMI Working Capital Sub-Facility Guarantees, the EMI Facilities Counter-Indemnity, the Amended and Restated Debenture, any other document from time to time designated by the Company and the Security Agreement as an EMI Bridge Facility Document, and the Security Documents.

"EMI Working Capital Sub-Facility Agreements" has the meaning give to it in the EMI £50m Working Capital Facility Agreement.

"EMI Working Capital Sub-Facility Guarantees" has the meaning given to it in the EMI £50m Working Capital Facility Agreement.

"Encumbrance" means (a) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person, (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person or (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

"Finance Documents" means all and any of the documents comprised in the EMI Bridge Facility Documents, the EMI Working Capital Facility Documents and the Lease Deed of Counter-Indemnity.

"Further Bridge Facility Agreement" has the meaning given to it in the EMI Bridge Renewed Commitment Letter.

"Group" has the meaning given to it in the Senior Facility Agreement.

"Group Entity" has the meaning given to it in the Senior Facility Agreement.

"Insurance Policies" means any policies of insurance in which the Company may now or hereafter have an interest.

"Intercreditor Deed" means a deed dated 28 March 1998 as amended and restated from time to time made between amongst others Merrill Lynch Capital Corporation and SBC Warburg Dillon Read, a Division of Swiss Bank Corporation as Joint Lead-arrangers, Swiss Bank Corporation as agent, Swiss Bank Corporation as security agent, the financial institutions named in it as senior lenders, the original investors named in it, the vendor named in it, the parties to it agreed that certain claims should be regulated and/or subordinated in the manner set out in it.

"Lease Deed of Counter Indemnity" means a deed of counter indemnity dated 28 March 1998 made by the Company creating an express counter-indemnity in favour of EMI in respect of certain Guarantees and Indemnities (each as defined in that document).

"Material Adverse Effect" has the meaning given to it in the Senior Facility Agreement.

"Principal Property" means such of the Real Property as is specified in Part I of the Fourteenth Schedule to the Senior Facility Agreement (which includes the Real Property specified in the First Schedule to the Amended and Restated Debenture) or which is after the date of the Amended and Restated Debenture acquired by the Company and satisfies the Agreed Criteria.

"Real Property" means all estates and other interests in freehold, feuhold, leasehold and other immovable or heritable property wheresoever situate now or hereafter belonging to the Company of which the Company is the registered proprietor, owner specified, entitled to an interest, and all buildings, trade and other fixtures, fixed plant and machinery from time to time on any such freehold, feuhold, leasehold and other heritable or immovable property and any reference to the Real Property shall be taken to refer to the whole or any part or parts of any property comprised therein at any time.

"Secured Obligations" means the obligations referred to in Part I of this Schedule.

"Security" means the security from time to time constituted by or pursuant to the Amended and Restated Debenture.

"Security Agent" means EMI, and the expression "Security Agent" shall include any person for the time being appointed as security trustee or as an additional trustee for the purpose of the Finance Documents).

"Security Documents" means all and any of the debentures, share pledges and other security documents created from time to time in favour of EMI for the benefit of the Beneficiaries pursuant to the terms of the EMI Bridge Facility Documents and/or the EMI Working Capital Facility Documents and/or the Lease Deed of Counter Indemnity.

"Senior Facility Agreement" means a senior facility agreement dated on the date of this Amended and Restated Debenture made between the Company as parent, Merrill Lynch Capital Corporation and SBC Warburg Dillon Read, a Division of Swiss Bank Corporation as joint lead-arrangers, Swiss Bank Corporation as agent and as security agent and the financial institutions defined in it as Banks, by which the banks have agreed to make available term loan facilities of up to £400,000,000 and working capital facilities of up to £100,000,000 (or the equivalent, in each case, in certain other currencies) on the terms set out in it.

"Senior Facility Documents" has the meaning given to it in the Intercreditor Deed.

"Senior Security Agent" has the meaning given to the Security Agent in the Amended and Restated Debentures comprised in the definition of Senior Facility Documents.

"Share" shall have the meaning ascribed to it in Section 744 of the Companies Act 1985 or article 2 of the Companies (Northern Ireland) Order 1986 as the case may be.

"Subsidiary Shares" means those Shares listed in the Second Schedule to the Amended and Restated Debenture.



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

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT AN AMENDMENT DEED (TO A DEBENTURE DATED 28TH MARCH 1998 AS AMENDED AND RESTATED ON 14TH MAY 1998 THE "AMENDED AND RESTATED DEBENTURE") DATED THE 22nd MAY 1998 AND CREATED BY WATERSTONE'S BOOKSELLERS LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO EMI GROUP PLC (AS SECURITY AGENT FOR ITSELF AND EMI GROUP FINANCE PLC) (THE SECURITY AGENT) (WHETHER FOR ITS OWN ACCOUNT OR AS TRUSTEE FOR THE BENEFICIARIES) OR ANY OF THE OTHER BENEFICIARIES UNDER OR PURSUANT TO THE FINANCE DOCUMENTS (INCLUDING THE AMENDED AND RESTATED DEBENTURE) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 3rd JUNE 1998.

John A. MacLean
A. J. MacLean

for the Registrar of Companies



C O M P A N I E S H O U S E

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