

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

CHFP025

Please do not write in this margin

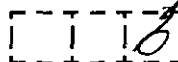
Please complete legibly, preferably in black type, or bold block lettering

\*insert full name of Company

Pursuant to section 395 of the Companies Act 1985

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

For official use



Company number

246039/26  
3462675

Name of company

\* Morgans Hotel Group London Limited

Date of creation of the charge

30 June 2006

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

Supplemental debenture dated 30 June 2006 between (1) Morgans Hotel Group London Limited as Chargor (the "**Chargor**") and (2) Citibank International PLC as Security Trustee (the "**Security Trustee**") ("**Supplemental Debenture**")

Amount secured by the mortgage or charge

All monies debts obligations and liabilities whatsoever whether for principal, interest, default interest or otherwise now or in the future due from owing or incurred by the Chargor to any Finance Party (as defined below) under the Finance Documents (as defined below) whether present or future actual or contingent and whether alone or severally or jointly with any other person and whether as principal, guarantor, surety or otherwise and in whatever name or style and whether on any current or other account or in any manner whatsoever including interest to the date of payment at such rates and upon such terms as may be provided for in the Amended Facility Agreement (as defined) or otherwise from time to time agreed and all commission, fees, costs, expenses and other charges on a full indemnity basis (the "**Secured Liabilities**").

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

Citibank International PLC, Citigroup Centre, Canada Square, Canary Wharf, London

Postcode E14 5LB

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

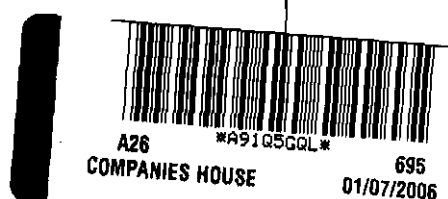
Herbert Smith LLP  
Exchange House  
Primrose Street  
London  
EC2A 2HS

Time critical reference  
2123/30859019

For official Use (06/2005)

Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

Please see attached continuation sheet.

Please do not  
write in  
this margin

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

Particulars as to commission allowance or discount (note 3)

N/A

**A fee is payable  
to Companies  
House in  
respect of each  
register entry  
for a mortgage  
or charge.  
(See Note 5)**

Signed **Harbert Smith LLP**

Date **30/6/06**

On behalf of ~~XXXXXXXXXXXXXXXXXX~~/chargee] †

Notes

† delete as  
appropriate

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;  
(a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or  
(b) procuring or agreeing to procure subscriptions, whether absolute or conditional,  
for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 A fee of £13 is payable to Companies House in respect of each register entry 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

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**SCHEDULE 1**

**SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED**

**1. THE PROPERTY**

- 1.1** The Chargor with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities has charged to the Security Trustee by way of first legal mortgage all the Chargor's right, title, benefit, estate and interest in and to the Properties.
- 1.2** The Chargor with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities has agreed to assign and has assigned absolutely to the Security Trustee all the Chargor's present and future rights, title, benefit and interest in and to all rents, revenues, profits, receipts or income (including, without limitation, the Revenues to the extent not otherwise effectively assigned to the Security Trustee under the Revenue and Account Assignment) and other income receivable by the Chargor in relation to the Property, the Related Property Rights and (to the fullest extent assignable or capable of assignment without infringing any contractual provision restricting assignment) all its right, title, benefit and interest arising out of or in all present and future contracts (including Insurance Policies and each Management Agreement to the extent not otherwise effectively assigned to the Security Trustee under the Revenue and Account Assignment), deeds, undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed by the Chargor and relating to the Property and in all monies from time to time payable thereunder.

**2. FIXED CHARGE PROPERTY**

The Chargor with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities has charged to the Security Trustee by way of first fixed charge all the Chargor's present and future rights, title, benefit and interest in and to:

- 2.1** any other freehold and leasehold property now and at any time during the continuance of this security belonging to, vested in or held by the Chargor and all licences now or hereafter held by the Chargor to enter upon or use land and the benefit of all other agreements relating to land to which the Chargor is or may become a party or otherwise entitled and all buildings fixtures (including trade fixtures) and fixed plant and machinery owned by the Chargor and from time to time on or in any freehold or leasehold property an interest in which is charged hereunder and all rents and other income of such freehold or leasehold property;
- 2.2** all present and future plant, vehicles and machinery (to the extent not effectively mortgaged or charged under the Supplemental Debenture);
- 2.3** all chattels hired, leased or rented by the Chargor to any other person in each case subject to and together with the benefit of any related hiring, leasing or rental contract and any guarantee, indemnity or other security for the performance of the obligations of any person under or in respect of that contract (to the fullest extent permitted under any relevant agreement);

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- 2.4 all book debts and other debts and receivables now and from time to time due or owing to the Chargor and whether presently payable or hereafter falling due for payment and all proceeds thereof and the benefit of all rights relating thereto;
- 2.5 any balance now or in the future standing to the credit of any account with any bank or financial institution including the Charged Accounts and any such balances held in solicitors bank accounts (to the extent not otherwise effectively charged by the Revenue and Account Assignment);
- 2.6 all present and future contracts or policies of insurance (including life policies) in which the Chargor now or hereafter has an interest and all monies from time to time payable thereunder, including any refund of premiums (to the extent not otherwise effectively assigned under the Supplemental Debenture);
- 2.7 all stocks, shares, bonds, notes, certificates of deposit, depository receipts, negotiable instruments and/or other securities of any kind whatsoever whether marketable or otherwise now or at any time during the continuance of this security owned (whether at law or in equity) by the Chargor in any company, firm or entity wheresoever situate, including all dividends, interest allotments, accretions, offers, rights, benefits and advantages whatsoever in respect of or incidental to such securities;
- 2.8 all and any inventions, patents, applications for patents, registered or unregistered trademarks or service marks, registered or unregistered designs, or applications for registration of trademarks, service marks or designs, and any trade names, rights, licences, copyrights, confidential information, know how, trade secrets and any other property in the nature of intellectual property belonging to or in which the Chargor has an interest;
- 2.9 the Chargor's present and future goodwill and uncalled capital;
- 2.10 all documents which have been or may from time to time be deposited with the Security Trustee and which are not charged to the Security Trustee pursuant to the foregoing sub-clauses, including all rights, monies or property (whether of a capital or income nature) howsoever accruing or derived therefrom or arising in respect thereof; and
- 2.11 all contracts, licences, consents and authorisations held in connection with the Chargor's business (including each Management Agreement) or the use of any Charged Property (to the extent not effectively assigned under the Supplemental Debenture), and all Related Property Rights in respect of the above.

**3. FLOATING CHARGE**

The Chargor with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities has charged to the Security Trustee by way of first floating charge the Chargor's undertaking and all its other property assets and rights whatsoever and wheresoever present and future including those expressed above as charged by way of legal mortgage or fixed charge or assigned to the Security Trustee if and to the extent that such charge may fail for any reason to operate as a legal mortgage or fixed charge or such assignment may be ineffective.

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**4. NEGATIVE PLEDGE**

The Chargor has covenanted with the Security Trustee that it will not without the prior written consent of the Security Trustee (unless permitted by the terms of the Amended Facility Agreement):

- 4.1** create or permit to subsist any Security over the whole or any part of the Charged Property; or
- 4.2** without prejudice to the provisions of the Amended Facility Agreement part with possession of, convey, transfer, assign, sell, lease or grant any licence over or otherwise dispose of the Charged Property or any part thereof or attempt or agree to do so except in the ordinary course of business and for full value and on terms usual in a business of the kind carried on by the Chargor in respect of that part of the Charged Property which is subject only to an uncrystallised floating charge in favour of the Security Trustee.

**5. FURTHER ASSURANCE**

The Chargor has agreed that it will execute and do all such assurances, acts and things as the Security Trustee in its absolute discretion may require for:

- 5.1** perfecting or protecting the security created by the Supplemental Debenture (or intended to be created); or
- 5.2** preserving or protecting any of the rights of the Security Trustee under the Supplemental Debenture; or
- 5.3** facilitating the appropriation or realisation of the Charged Property; or
- 5.4** the exercise of any power, authority or discretion vested in the Security Trustee under the Supplemental Debenture,

in any such case, forthwith upon demand by the Security Trustee and at the expense of the Chargor, and pending such execution, assurances, acts and things the Chargor will hold the Charged Property on trust following such demand for the Security Trustee subject to the provisions of the Supplemental Debenture.

**6. DEFINITIONS AND INTERPRETATION**

**6.1 Definitions**

"**A Margin**" means the amount specified as the A Margin in the A Margin Letter.

"**A Margin Letter**" means the letter dated on or about the date of the Original Facility Agreement between the Chargor and the Agent, setting out the A Margin.

"**Agent**" means Citibank International Plc.

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**"Amended Facility Agreement"** means the Original Facility Agreement as amended and restated on [] June 2006.

**"Arranger"** means Citibank Global Markets Limited.

**"B Margin"** means the amount specified as the B Margin in the B Margin Letter.

**"B Margin Letter"** means the letter dated on or about the date of the Original Facility Agreement between the Chargor and the Agent setting out the B Margin.

**"Charge on Shares"** means the charge over the entire share capital of the Chargor.

**"Charged Accounts"** means the General Account, FF&E Account, the Deposit Account and the Revenue Account.

**"Charged Property"** means the Property and all other assets and rights of the Chargor which are the subject of any security created or purported to be created by the Supplemental Debenture.

**"Deposit Account"** means the current account of the Borrower so designated and set up in accordance with the terms of the Amended Facility Agreement.

**"FF&E Account"** means the current account of the Borrower so designated and set up in accordance with the terms of the Amended Facility Agreement.

**"Finance Documents"** means the Amended Facility Agreement, the Security Documents, the A Margin Letter, the B Margin Letter and any other documents designated as such by the Agent and the Chargor, and "Finance Document" means any of them.

**"Finance Parties"** means the Agent, the Arranger, the Security Trustee and the Lenders, and "Finance Party" means any of them.

**"General Account"** means the current account of the Borrower so designated and set up in accordance with the terms of the Amended Facility Agreement.

**"Insurance Policies"** means insurance policies in respect of each Property in form and substance satisfactory to the Agent (acting reasonably) which shall be obtained and maintained by the Chargor pursuant to clause 21.8 (*Insurance*) of the Amended Facility Agreement.

**"Lenders"** means the lenders for the time being under the Amended Facility Agreement.

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**"Management Agreement"** means each management agreement dated 18 June 1998 between the Chargor and the Manager relating to the management of each Property as a hotel or any other management agreement entered into by the Chargor relating to the management of a Property in accordance with the Amended Facility Agreement.

**"Manager"** means Morgans Hotel Group U.K. Management Limited (formerly known as Royalton U.K. Management Limited) (a company incorporated in England & Wales with registered number 03520726) as manager of each Property under the terms of the Management Agreements or any other person appointed as a manager of any Property in accordance with the Amended Facility Agreement.

**"Original Debenture"** means the debenture between (1) the Company and (2) the Security Trustee dated 24 November 2005.

**"Original Facility Agreement"** means the £107,456,000 facility agreement dated 24 November 2005 made between, inter alia, the Chargor and the Security Trustee.

**"Property"** means:

- (A) the freehold property known as The St. Martin's Lane Hotel, 45 St. Martin's Lane, London, WC2N 4HX registered at the Land Registry with title number 379553; and
- (B) the leasehold property known as The Sanderson Hotel, 50 Berners Street, London, W1T 3NG registered at the Land Registry with title number NGL748048,  
and includes each and every part of such property or properties and all buildings fixtures and fittings thereon and the Related Property Rights.

**"Related Property Rights"** means, in relation to any property or asset in so far as it relates to the Property:

- (A) the proceeds of sale and/or other realisation of that property or asset (or any part thereof or interest therein);
- (B) all Security, options, agreements, rights, easements, benefits, indemnities, guarantees, warranties or covenants for title in respect of such property or asset; and
- (C) all rights under any lease, licence or agreement for lease, sale or use in respect of such property or asset.

**"Revenue"** means, in respect of any period, the gross revenue of the Chargor arising from its ownership of the Properties.

**"Revenue Account"** means the current account of the Borrower so designated and set up in accordance with the terms of the Facility Agreement.

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**"Revenue and Account Assignment"** means the Revenue and Account Assignment dated 24 November 2005 made between the Chargor and the Security Trustee.

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

**"Security Documents"** means the Original Debenture; the Revenue and Account Assignment; the Charge on Shares; any supplemental charge executed by the Chargor after the date of the Original Facility Agreement; and such other Security as the Agent may from time to time require in connection with the Facility as defined in the Amended Facility Agreement in accordance with a Finance Document.

## **6.2 Interpretation**

A **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated from time to time.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03462675

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SUPPLEMENTAL DEBENTURE DATED THE 30th JUNE 2006 AND CREATED BY MORGANS HOTEL GROUP LONDON LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ANY FINANCE PARTY 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 1st JULY 2006.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 5th JULY 2006.

*pm*



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES