

# M

CHFP025

COMPANIES FORM No. 395

526224/60

# 395

## Particulars of a mortgage or charge

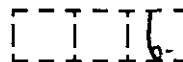
A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge.

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number



03514470

Name of company

\* Babcock & Brown Properties Limited (the **Mortgagor**)

Date of creation of the charge

24 December 2003

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

The letter dated 24 December 2003 (the **Letter**) from the Mortgagor to The Governor and Company of the Bank of Scotland (the **Security Trustee**).

Amount secured by the mortgage or charge

All and any amounts of any kind now or in the future due and payable by the Borrower or by the Mortgagor to any of the Secured Parties under or in connection with the Financing Documents or the Mortgage as so confirmed (the **Secured Amounts**) and references to the Secured Amounts (save in clauses 4.3 and 10 of the Mortgage) includes references to any part of them.

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

The Governor and Company of the Bank of Scotland of New Ueberior House, 11 Earl Grey Street, Edinburgh (for itself and on behalf of the Secured Parties).

Postcode EH3 9BN

Please return

via

CH London Counter Resentor's name address and reference (if any):

Denton Wilde Sapte  
1 Fleet Place  
London  
EC4M 7WS

MXW/HJB/6530120.01

Time critical reference

For official Use  
Mortgage Section

Post room



LOS  
COMPANIES HOUSE

\*L8F26ROU\*

0356  
12/01/04

Short particulars of all the property mortgaged or charged

By way of a continuing security for the payment and discharge of the Secured Amounts, the Mortgagor with full title guarantee by the Mortgage charges and agrees to charge to the Security Trustee on behalf of the Secured Parties by way of legal mortgage:

- (a) the Original Securities;
- (b) any other securities which the Mortgagor may, with the prior written consent of the Security Trustee, from time to time, substitute for all or any of the Original Securities;
- (c) all other securities and all rights, moneys (including without limitation, dividends) and property whatsoever which may from time to time at any time be derived from, accrue on or be offered in respect of the Original Securities or other securities referred to in clause 3.1(b) of the Mortgage whether by way of redemption, exchange, conversion, rights, bonus, capital reorganisation or otherwise howsoever,

(Continued on Doc. No. 6530121.01)

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)

Nil

Signed

*Denton Wides Supte*

Date

*12 January 2004*

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

A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

† delete as appropriate

## Notes

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

Companies House, Crown Way, Cardiff CF14 3UZ

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

but in each case so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 (the LP (MP) Act) in the mortgages and charges contained in or created pursuant to the Mortgage, are construed with the omission of:

- (A) the words "other than any charges, encumbrances or rights which that person does not and could not reasonably be expected to know about" in section 3(1) LP (MP) Act; and
- (B) section 6(2) LP (MP) Act.

The Mortgagor undertakes that, for so long as any Secured Amounts remain outstanding, it shall not (without the prior written consent of the Security Trustee) create or permit to exist over all or part of the Security Shares (or any interest therein) any Security Interest (other than the Mortgage) whether ranking prior to, pari passu with or behind the security contained in the Mortgage.

## DEFINITIONS

**Account Bank** means The Governor and Company of the Bank of Scotland in its capacity as account bank or any successor Account Bank in respect of the Project Accounts.

**Advance** means each principal amount made available or to be made available to the Borrower hereunder or (as the context requires) the principal amount thereof for the time being outstanding.

**Agent** means The Governor and Company of the Bank of Scotland in its capacity as agent or any successor as agent of the Banks under the Financing Documents.

**Amendment Agreement** means the amendment agreement dated 24 December 2003 relating to the Facility Agreement.

**Arranger** means Abbey National Treasury Services plc of Abbey National House, 2 Triton Square, Regent's Place, London NW1 3AN as arranger of the Facility.

**Authority** means, together, Derby City Council and Derbyshire County Council and their permitted successors and assigns under the Project Agreement.

**Banks** means the banks and other financial institutions listed on the execution pages of the Amendment Agreement and their respective successors and any Transferee Bank (as defined in clause 22.2 (Transfers by Banks) of the Facility Agreement) which are, in each case, for the time being having a Commitment and/or participating in the Facility and Banks means any of them.

**Borrower** means Derbyshire Courts, a limited partnership registered under the Limited Partnership Act 1907 (registered number LP7521) whose principal place of business is at 1 Fleet Place, London, EC4M 7NR, acting through its general partner Derbyshire Courts Limited (registered number 04184570) whose registered office is at 1 Fleet Place, London, EC4M 7NR.

Company Number

03514470

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

**Clearing Account** means the account entitled Derbyshire Courts - Clearing Account, (having the Account No notified by the Agent to the Borrower) (including any such accounts into which such account may be divided) maintained by the Borrower with Cater Allen and shall include any account (and sub-accounts) opened in substitution therefor with any successor, in each case as such account may be reviewed redesignated or re-numbered from time to time).

**Commitment** means, in relation to a Bank, the principal amount set opposite its name in schedule 1 (Commitments) of the Facility Agreement in respect of the Facility or, if relative to a particular tranche, the amount relative to such tranche or, as applicable, the relevant commitment amount set out in a Transfer Certificate for a Bank, in any case to the extent not transferred, reduced or cancelled in accordance with the provisions hereof.

**Construction Sub-Contractor** means:

- (a) HBG Construction Midlands Limited (registered number 02149592) whose registered office is at Merit House, Edgware Road, Colindale and its permitted successors and/or assignees; or
- (b) any replacement contractor approved by the Agent in accordance with clause 15.24 of the Facility Agreement.

**Debenture** means the partnership debenture in the agreed form, given or to be given by the Borrower and the General Partner in favour of Abbey National Treasury Services plc on behalf of the Finance Parties.

**Debt Service Reserve Account** means the account entitled Derbyshire Courts - Debt Service Reserve Account (Account Number 0213757) (including any such accounts into which such account may be divided) maintained by the Borrower with the Account Bank and shall include any account (and sub-accounts) opened in substitution therefore with any successor to the Account Bank, in each case as such account may be renewed, redesignated or renumbered from time to time.

**Deed of Accession** means a deed of accession in the form set out in Schedule 8 to the Amendment Agreement.

**Deed of Subordination** means the deed in the agreed form between Abbey National Treasury Services plc, the Borrower and the Subordinated Creditors pursuant to which the Subordinated Debt is subordinated to the Senior Debt.

**Direct Agreements** means each of the agreements in the agreed form between the Borrower, Abbey National Treasury Services plc and:

- (a) the Authority;
- (b) the Construction Sub-Contractor;

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

(c) the Operating Sub-Contractor.

respectively.

**Disbursement Account** means the account entitled Derbyshire Courts - Disbursement Account Account Number 0213773 (including any such accounts into which such account may be divided) maintained by the Borrower with the Account Bank and shall include any account (and sub-accounts) opened in substitution therefore with any successor to the Account Bank, in each case as such account may be renewed, redesignated or renumbered from time to time.

**Facility** means the term advance facility, the terms and conditions of which are set out in the Facility Agreement.

**Facility Agreement** means the loan agreement between the Agent, the Security Trustee, the Bank and the Borrower dated on or about the date of the Mortgage as from time to time modified, supplemented or varied in any manner or respect whatsoever including, in particular, by any alteration or modification which increases or otherwise affects the liability of the Borrower thereunder.

**Fees Letter** means the letter agreement dated 31st August 2001 between Abbey National Treasury Services plc as Agent and Arranger and the Borrower setting out the amount of fees referred to in clause 23 (Fees and Expenses) of the Facility Agreement.

**Finance Party** means any of the Agent, the Arranger, the Account Bank, the Security Trustee or a Bank (other than in its capacity as a Hedging Counterparty) and Finance Parties shall be construed accordingly.

**Financing Documents** means:

- (i) the Facility Agreement;
- (ii) each Fee Letter;
- (iii) each of the Security Documents;
- (iv) the Deed of Subordination;
- (v) the Direct Agreements;
- (vi) any Transfer Certificate;
- (vii) any Step-in Undertaking entered into pursuant to a Direct Agreement;
- (viii) the notices of charge given pursuant to and as contemplated by the Debenture and the acknowledgements thereto;
- (ix) the Amendment Agreement;
- (x) any Hedging Agreement at any time in effect; and
- (xi) any other document designated in writing as such by the Agent and the Borrower.

**First Limited Partner** means Babcock & Brown (Derbyshire Courts) Limited (registered no. 04184606) whose registered office is at I Fleet Place, London EC4M 7NR.

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

**General Partner** means Derbyshire Courts Limited (registered no. 04184570) whose registered office is at 1 Fleet Place, London EC4M 7NR.

**Hedging Agreement** means:

- (a) the Initial Hedging Agreement; and
- (b) any other agreement made between the Borrower and any Hedging Counterparty pursuant to the Approved Hedging Programme.

**Hedging Counterparties** means the banks and financial institutions listed on the execution page of the Amendment Agreement as hedging counterparty, their respective successors in title and each Hedging Counterparty that has entered into a Deed of Accession.

**Hedging Counterparty** means:

- (a) the Initial Hedging Counterparty; and
- (b) any Bank with which the Borrower has entered into a Hedging Agreement.

**Initial Hedging Agreement** means the interest rate hedging agreement between the Borrower and the Initial Hedging Counterparty constituted by the ISDA Master Agreement, the schedule thereto and the confirmation thereunder, each dated on or about the date of the Amendment Agreement in the form attached thereto.

**Initial Hedging Counterparty** means HBOS Treasury Services plc acting in such capacity.

**Initial Limited Partner** means each of the First Limited Partner and the Second Limited Partner (each being a limited partner within the meaning of Section 4(2) of the Act).

**Insurance Proceeds Account** means the account entitled Derbyshire Courts - Insurance Proceeds Account (Account Number 0213749) (including any sub-accounts into which such account may be divided) opened by the Borrower with the Account Bank and shall include any account (and sub accounts) opened in substitution therefor with any successor to the Account Bank, in each case as such account may be renewed, redesignated or renumbered from time to time.

**Limited Partners** means the Initial Limited Partners or their successors in title or permitted assignees and any other person who is, subsequently admitted to the Partnership as a limited partner (being in each case a limited partner within the meaning of Section 4(2) of the Act) and the expression **Limited Partner** shall be construed accordingly.

**Limited Partner Charge** means the Security Interest created by a Limited Partner in respect of its partnership share in favour of the Security Trustee.

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

**Maintenance Reserve Account** means the account entitled Derbyshire Courts - Maintenance Reserve Account (Account Number 0213765) (including any such accounts into which such account may be divided) maintained by the Borrower with the Account Bank and shall include any account (and sub-accounts) opened in substitution therefore with any successor to the Account Bank, in each case as such account may be renewed, redesignated or renumbered from time to time.

**Mortgage** means the mortgage dated 31 August 2001 granted by the Mortgagor in favour of Abbey National Treasury Services plc.

**Operating Sub-Contractor** means:

- (a) Rentokil Initial Management Services Limited; or
- (b) such replacement contractor as is approved by the Agent in accordance with clause 15.24 of the Facility Agreement.

**Original Securities** means the securities listed in the Schedule to the Mortgage which are all registered in the name of the Mortgagor.

**Outstandings** means, at any time, in respect of a particular Bank, its participation in respect of all Advances which have not been fully repaid at such time.

**Partnership Agreement** means the agreement dated 28 March 2001 made between the General Partner, the First Limited Partner and the Second Limited Partner.

**Proceeds Account** means the account entitled Derbyshire Courts - Proceeds Account (Account Number 0213730) (including any such accounts into which such account may be divided) maintained by the Borrower with the Account Bank and shall include any account (and sub-accounts) opened in substitution therefor with any successor to the Account Bank, in each case as such account may be renewed, redesignated or renumbered from time to time.

**Project Accounts** means:

- (a) the Disbursement Account;
- (b) the Proceeds Account;
- (c) the Insurance Proceeds Account;
- (d) the Maintenance Reserve Account;
- (e) the Debt Service Reserve Account;
- (f) the Clearing Account.

**Project Agreement** means the project agreement made between the Authority and the Borrower dated 31st August 2001.

Company Number

03514470

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

**Qualifying Bank means:**

- (a) a bank for the purposes of Section 840A of the United Kingdom Income and Corporation Taxes Act 1988 which is beneficially entitled to the interest on its Outstandings and is within the charge to corporation tax as respects such interest;
- (b) a bank which is resident in a territory outside the United Kingdom for the purposes of an applicable double tax treaty between that territory and the United Kingdom, is outside the scope of United Kingdom corporation tax in respect of payments hereunder and is, pursuant to the terms of that treaty, entitled to exemption from United Kingdom income tax in respect of interest derived from the relevant Advance.

**Receiver** includes any person or persons appointed (and any additional person or persons appointed or substituted) as administrative receiver, receiver, manager, or receiver and manager by the Security Trustee under the Mortgage or otherwise.

**Second Limited Partner** means Peak Courts Limited (registered no. 04184537) whose registered office address is at 1 Fleet Place, London EC4M 7NR.

**Secured Parties** means the Finance Parties and the Hedging Counterparties and **Secured Party** means any of them.

**Security Documents means:**

- (a) the Debenture;
- (b) the Limited Partner Charges entered into by the Limited Partners;
- (c) the Mortgage; and
- (d) any other real or personal security granted in favour of the Security Trustee to secure the liabilities of the Borrower to any of the Finance Parties under any of the Financing Documents.

**Security Interest** means any mortgage, charge, pledge, lien, right of set-off, assignment by way of security, retention of title or any other security interest whatsoever or any other agreement or arrangement having the effect of conferring security, howsoever created or arising and whether conditional or otherwise.

**Security Shares** means the Original Securities and all and any other shares, securities, rights, moneys and property for the time being mortgaged or charged to the Bank pursuant to clause 3 of the Mortgage.

**Senior Debt** means all amounts owing or due to be paid to the Finance Parties pursuant to the Financing Documents.

**Shareholder** means the Mortgagor and any other person who is a shareholder of the General Partner or a Limited Partner from time to time.



Company Number

03514470

Name of company

Babcock & Brown Properties Limited (the **Mortgagor**)

Short particulars of all the property mortgaged or Letter (continued)

**Subordinated Creditors** means the General Partner, the Second Limited Partner and the First Limited Partner.

**Subordinated Debt** means funding made available to the Borrower by a party to the Deed of Subordination which is subordinated pursuant to the Deed of Subordination as to rights of payment to the interests of the Finance Parties under the Financing Documents.

**Transfer Certificate** means a certificate in the form of Schedule 7 of the Facility Agreement (Form of Transfer Certificate) delivered pursuant to clause 22 (Assignments and Transfers) of the Facility Agreement.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03514470

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A LETTER DATED THE 24th DECEMBER 2003 AND CREATED BY BABCOCK & BROWN PROPERTIES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE BORROWER OR THE COMPANY TO ANY OF THE SECURED PARTIES 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 12th JANUARY 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 14th JANUARY 2004.

*Handwritten signature*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES