

M**395****Particulars of a mortgage or charge**

Pursuant to section 395 of the Companies Act 1985

Please do not
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legibly,
preferably in
black type or
bold block
lettering

To the Registrar of Companies

For Official Use Company Number

146644/130

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4012403

Name of company

*Insert full
name of
company

Absolute Swindon Limited (the "Company")

Date of creation of the charge

29 July 2004

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

Supplemental Debenture (the "Supplemental Debenture")

Amount secured by the mortgage or charge

All money and liabilities now or in the future due, owing or incurred to each Beneficiary by the Company under or pursuant to the Senior Finance Documents whether on or after demand, whether actually or contingently, whether solely or jointly with any other person, whether as principal or surety and whether or not the relevant Beneficiary was an original party to the relevant transaction, including all interest, commission, fees, charges, costs and expenses which each Beneficiary may in the course of its business charge or incur in respect of the Company or its affairs and so that interest shall be computed and compounded in accordance with the Senior Finance Documents (after as well as before any demand or judgment) and all money and liabilities now or in the future due, owing or incurred to each Beneficiary by the Company under or pursuant to the Mezzanine Finance Documents whether on or after demand, whether actually or contingently, whether solely or jointly with any other person, whether as principal or surety and whether or not the relevant Beneficiary was an original party to the relevant transaction, including all interest, commission, fees, charges, costs and expenses which each Beneficiary may in the course of its business charge or incur in respect of the Company or its affairs and so that interest shall be computed and compounded in accordance with the Mezzanine Finance Documents (after as well as before any demand or judgment), together, the "Secured Sums".

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

The Governor and Company of the Bank of Scotland of 4th Floor, New Ueberior House, 11 Earl Grey Street, Edinburgh as security agent and trustee for the Beneficiaries

Presenter's name, address and reference
(if any):

Eversheds
Central Square South
Orchard Street
Newcastle upon Tyne
NE1 3XX
Ref: (CP) GBC/Kier

Time critical reference

For Official Use
Mortgage section

Post Room

A06
COMPANIES HOUSE

AX4X9XLZ

0621
12/08/04

Short particulars of all the property charged

As specified in the attached schedule 2.

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legibly, preferably
in black bold type
or bold block
lettering

Particulars as to commission allowance or discount (note 3)

N/A

For BoS

Signed



Date

10/8'

2004

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 situated in Scotland or Northern Ireland) and Form No. 398 is submitted
2. A description of the instrument, e.g. "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

Particulars of a mortgage or charge

Name of Company: **Absolute Swindon Limited**

Number of Company: **4012403**

SCHEDULE 1

Relating to a Supplemental Debenture in favour of The Governor and Company of the Bank of Scotland dated 29 July 2004

Definitions

"Beneficiaries"	collectively, the Senior Finance Parties, the Mezzanine Finance Parties and the Hedging Banks (as defined in the Intercreditor Deed, as defined in the Facilities Agreement) and includes any one or more of them and "Beneficiary" shall be construed accordingly
"Development Document Claims"	all the Company's rights, title and interest and benefit in and to, and any sums payable to the Company pursuant to, all representations, warranties, undertakings and indemnities to, agreements with and security to be provided in favour of the Company, and any rights of abatement or set-off, and all other rights of recovery under or pursuant to any Development Document (as defined in the Facilities Agreement)
"Facilities Agreement"	the facilities agreement dated 11 April 2002 made between Kier Developments Limited, the Original Borrowers (as defined therein), the Original Guarantors (as defined therein), the Arranger (as defined therein), the Original Lenders (as defined therein), the Agent (as defined therein), the Security Agent and the Working Capital Banks (as defined therein) (including the guarantees by the Company contained in such agreement), which expression shall include any amendments, supplements, accessions, variations or additions to such agreement, however fundamental, including changes to the facilities provided or increases in their maximum amount
"Intellectual Property"	patents (including supplementary protection certificates), utility models, trade marks (including services marks, the Trade Marks (as defined in the Facilities Agreement) and the Patents (as defined in the Facilities Agreement)) and rights in passing off, copyright and rights in the nature of copyright, database rights, design rights, registered design rights and all other intellectual property rights and, in each case, any extension and renewals of and any applications for such rights
"Intellectual Property Rights"	all and any of the Intellectual Property and other rights, causes of action, interests and assets charged pursuant to clause 3.1(j) (<i>Charging Clause</i>) of the Debenture
"Land"	includes freehold and leasehold land and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures)
"Mezzanine Finance Documents"	the Mezzanine Loan Agreement (as defined in the Facilities Agreement) (including the guarantees by the Company contained in such agreement), the Fee Letters (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement), the Accession Letters (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement), the Security Documents (as defined in the Facilities Agreement) insofar as they secure the Mezzanine Debt (as defined in the Intercreditor Agreement, as defined in the Facilities Agreement), the Intercreditor Deed (as defined in the Facilities Agreement), the Subordination Deed (as defined in the Facilities Agreement), any Transfer Certificate (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement) or undertaking delivered pursuant to clause 27 (<i>Changes to Lenders</i>) of the Mezzanine Loan Agreement (as defined in the Facilities Agreement) and any other document entered into by any Mezzanine Finance party in connection with any of the foregoing and any amendments, supplements, or additions thereto, and any other documents designated as such by the Mezzanine Agent (as defined in the Facilities Agreement) and Kier Developments Limited
"Mezzanine Finance Parties"	the Agent (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement), the Security Agent (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement), the Arranger (as defined in the Mezzanine Loan Agreement, as defined in the Facilities Agreement) and "Mezzanine Finance Party" means any of them

"Permitted Security"	<ul style="list-style-type: none"> (a) liens and rights of set off arising by operation of law and retention of title clauses in suppliers' standard terms and conditions of business, in each case in the ordinary course of business; (b) Security under the Security Documents (as defined in the Facilities Agreement) or any agreement in favour of any Lender (as defined in the Facilities Agreement) in connection with credit balances held by that Lender which permit the netting of such credit balances, on in connection with any BACS facility; (c) conditional purchase, hire purchase, finance lease or capital lease arrangements which are Permitted Financial Indebtedness (as defined in the Facilities Agreement); (d) liens arising from unpaid Taxes (as defined in the Facilities Agreement) provided such Taxes are not more than 30 days overdue (but without prejudice to any Event of Default (as defined in the Facilities Agreement) resulting from the non-payment); and (e) first legal charge in favour of BAE Systems Electronics Limited over all the freehold land vested in Usherlink Limited and Liferange Limited described in Schedule 15 of the Facilities Agreement
"Rental Income"	<p>all rents, profits, income, fees and other sums whatsoever payable to an Obligor (as defined in the Facilities Agreement) and derived from the Properties (as defined in the Facilities Agreement) including:</p> <ul style="list-style-type: none"> (a) under rental guarantees or insurance for loss of rent; (b) such sums payable following any rent review; (c) any premium or capital sums paid on the grant of any Lease (as defined in the Facilities Agreement) in lieu of the annual open market rental otherwise payable under such Lease or consideration payable for the surrender or valuation of the Lease; and (d) all sums of a revenue nature derived from the Properties (as defined in the Facilities Agreement) and the full benefit of all rights and remedies of that Obligor (as defined in the Facilities Agreement) relating thereto
"Security"	<p>includes any mortgage, charge, pledge, lien, hypothecation, assignment or deposit by way of security or any other agreement or arrangement having the effect of providing or giving security or preferential ranking to a creditor (including set off, title retention arrangements which do not arise in the ordinary course of trade, defeasance or reciprocal fee arrangements)</p>
"Security Agent"	<p>the Governor and Company of the Bank of Scotland of 4th Floor, New Ueberior House, 11 Earl Grey Street, Edinburgh as security agent and trustee for the Beneficiaries</p>
"Senior Finance Documents"	<p>the Facilities Agreement, the Fees Letters (as defined in the Facilities Agreement), the Accession Letters (as defined in the Facilities Agreement), the Security Documents (as defined in the Facilities Agreement) insofar as it secures the Senior Debt (as defined in the Intercreditor Agreement, as defined in the Facilities Agreement), the Hedging Documents (as defined in the Facilities Agreement), the Intercreditor Deed (as defined in the Facilities Agreement), the Subordination Deed (as defined in the Facilities Agreement), any Transfer Certificate (as defined in the Facilities Agreement) or undertaking delivered pursuant to clause 28 (<i>Changes to Lenders</i>) of the Facilities Agreement, the Working Capital Facility Letter (as defined in the Facilities Agreement) and any other document entered into by any Beneficiary in connection with any of the foregoing and any amendments, supplements or additions thereto, and any other document designated as such by the Agent (as defined in the Facilities Agreement) and Kier Developments Limited</p>
"Senior Finance Parties"	<p>the Agent (as defined in the Facilities Agreement), the Security Agent, the Arranger (as defined in the Facilities Agreement), the Lenders (as defined in the Facilities Agreement) and the Working Capital Banks (as defined in the Facilities Agreement), and "Senior Finance Party" means any of them</p>

Particulars of a mortgage or charge

Name of Company: **Absolute Swindon Limited**

Number of Company: **4012403**

SCHEDULE 2

Relating to a Supplemental Debenture in favour of the Governor and Company of the Bank of Scotland dated 29 July 2004

Charges

1. by way of first legal mortgage, all the freehold and leasehold land in England and Wales now vested in the Company including all that leasehold property being 4 and 6 Cavendish Place, London, W1G as the same is registered at the Land Registry with title number NGL734622 (the "New Property");
2. by way of first fixed charge:
 - 2.1 all interests in the New Property or the proceeds of sale of the New Property now or in the future belonging to the Company which have not been charged under paragraph 1 above and all licences now or in the future held by the Company to enter upon, use or exploit the New Property and the benefit of all options, easements, agreements for lease and other agreements relating to the acquisition, use, exploitation or disposal of the New Property to which the Company is or may in the future become entitled;
 - 2.2 all plant and machinery of the Company now or in the future attached to the New Property and all rights and interests of the Company under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached;
 - 2.3 all rental and other income and all debts and claims now or in the future due or owing to the Company under or in connection with any lease, agreement or licence relating to the New Property;
3. by way of assignment with full title guarantee (in so far as they are capable of being assigned by way of security) (but subject to the right of the Company to redeem such assignment upon the full payment or discharge of all the Secured Sums):
 - 3.1 all claims of the Company against all persons who are now or in the future the lessees, sub-lessees or licensees of the New Property and all guarantors and sureties for the obligations of such persons;
 - 3.2 the benefit of all guarantees, warranties and representations given or made to the Company by, and any rights or remedies against, all or any manufacturers, suppliers or installers of any fixtures now or in the future attached to the New Property;
 - 3.3 the benefit of all right and claims to which the Company is now or in the future entitled under any agreements for lease, agreements for sale, contracts, options or undertakings relating to any estate, right or interest in or over the New Property;
 - 3.4 all rights and claims to which the Company is now or in the future entitled against any builder, contractor or professional adviser engaged in relation to the New Property or property development or works, including, without limitation, Development Document Claims or claims under any collateral warranty or similar agreement;
 - 3.5 the Rental Income relating to the New Property.

Restriction

Pursuant to the terms of the original debenture in favour of the Governor and Company of the Bank of Scotland dated 12 April 2002 (the "Debenture"), the terms of which are incorporated by reference in the Supplemental Debenture, the Company covenanted with the Security Agent that the Company shall not, without the prior written consent of the Security Agent (and with the exception of Permitted Security):

- (a) create, or agree or attempt to create, or permit to subsist, and Security over any of its Assets;
- (b) sell, assign, lease, licence or sub-licence, or grant any interest in, its Land or Intellectual Property Rights, or purport to do any such act, or part with possession or ownership of them, or allow any third party access or the right to use or copy any such Intellectual Property Right.

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CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04012403

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SUPPLEMENTAL DEBENTURE DATED THE 29th JULY 2004 AND CREATED BY ABSOLUTE SWINDON LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO EACH BENEFICIARY 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 AUGUST 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 16th AUGUST 2004.

Pengels



Companies House

— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES