

CHFP025

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

*insert full name
of Company

COMPANIES FORM No. 395

Particulars of a mortgage or charge

A fee of £13 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

TTT2

04456791

Name of company

* Brake Bros Finance Limited (the "Company")

Date of creation of the charge

10 December 2007

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

A debenture accession deed dated 10 December 2007 (the "Debenture Accession Deed") executed by the Company to accede to a Debenture entered into by Cucina Acquisition (UK) Limited (Company number: 06279225) in favour of Barclays Bank PLC as Security Agent for the Secured Parties and dated 12 October 2007 (the "Debenture").

Amount secured by the mortgage or charge

Please see Schedule 2

Please see Schedule 1 for defined terms not otherwise defined in this form

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

Barclays Bank PLC, 5 North Colonnade, London (as Security Agent)

Postcode E14 4BB

Presentor's name address and
reference (if any)

Clifford Chance LLP
10 Upper Bank Street
London
E14 5JJ

(via CH London Counter)

Time critical reference

KDH/70-40298782.901764

For official Use (06/2005)
Mortgage Section

THURSDAY



LD7

LUM6XVGF
13/12/2007
COMPANIES HOUSE

25

Short particulars of all the property mortgaged or charged

Please see Schedule 3.

Please do not
write in
this margin

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

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95

Particulars as to commission allowance or discount (note 3)

None

Signed Chifford Chance LLP

Date [•] December 2007

On behalf of ~~XXXXXXXXXXXXXXXXXXXX~~ [chargee] †

**A fee 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 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

Continuation Sheet to Form 395

Schedules to Form 395 relating to the Debenture Accession Deed executed by Brake Bros Finance Limited (company number: 04456791) dated 10 December 2007 to accede to the Debenture entered into by Cucina Acquisition (UK) Limited (company number: 06279225) in favour of Barclays Bank PLC dated 12 October 2007.

SCHEDULE 1

DEFINITIONS

In this form 395

"Accession Agreement" means an Issuing Bank Accession Agreement or an Obligor Accession Agreement

"Account" means (other than any Trust Accounts) the Barclays Account and any other account opened or maintained by a Chargor with the Security Agent or any other bank or financial institution (and any replacement account or subdivision or subaccount of that account), the debt or debts represented thereby and all Related Rights

"Accounting Standards" means accounting standards which, as at the date of this Agreement, are

- (a) in the case of accounts of the Original Borrower, generally accepted in The United Kingdom and approved by the relevant regulatory or other accounting bodies in The United Kingdom, and
- (b) in the case of accounts of any other member of the Group, generally accepted in the jurisdiction of incorporation of that member of the Group and approved by the relevant regulatory or other accounting bodies in that jurisdiction

"Acquisition" means the acquisition by the Original Borrower of the Target Group in accordance with the Acquisition Documents

"Acquisition Documents" means the implementation agreement dated 29 June 2007 between Brake Bros Limited Partnership, Brake Holding I Limited and Bannerbrick Limited (now Cucina Acquisition (UK) Limited), the Offer Document and all other material documents relating to the Acquisition

"Ancillary Facility Document" means any document evidencing an ancillary facility

"Assigned Account" means each Blocked Account and any other Account that may from time to time be identified in writing as an Assigned Account by the Security Agent

"Barclays Account" means the account with account number 70804223 with sort code 20-02-62 (and any renewal or redesignation of such account) maintained with Barclays Bank PLC by the Original Chargor

"Blocked Account" means a bank account opened in the name of an obligor and secured in favour of the lenders under the Facility Agreement (on terms satisfactory under the facility agent)

"Charged Property" means all the assets and undertaking of each Chargor which from time to time are the subject of the security created or expressed to be created in favour of the Security Agent by or pursuant to the Debenture and any Mortgage

"Chargors" means the Original Chargor and any other member of the Group which has become a Chargor hereunder by executing a Security Accession Deed and "Chargor" means any of them

"Collateral Rights" means all rights, powers and remedies of the Security Agent provided by or pursuant to the Debenture or any Mortgage or by law

"Commitment Letter" means the commitment letter dated 12 July 2007 and made between Barclays Capital, Barclays Bank PLC, J P Morgan PLC, JPMorgan Chase Bank, N A , Cucina Finance and the Original Borrower together with the Accession Letter dated 12 July 2007 and made between the Arrangers, Barclays Bank PLC, JPMorgan Chase Bank, N A , Cucina Finance and the Original Borrower together with the letters of the same date setting out further details of the terms of that commitment

"Compliance Certificate" means a compliance certificate pursuant to the Facility Agreement

"Contract of Sale" has the meaning given to such term in the Receivables Financing Facility Documents

"Delegate" means any delegate, agent, attorney or co-agent appointed by the Security Agent.

"Distribution Letter" means the letter dated 12 July 2007 between the Arrangers, Cucina Finance, the Original Borrower and others

"Excluded Debt Claims" means any debts and any proceeds of such debts and any related rights to such debts which are assigned, purportedly assigned or are intended to be assigned to Barclays Bank PLC (acting through its Sales Finance Division) under the Receivables Financing Facility Documents provided that to the extent that any such debts, proceeds of such debts or related rights are re-assigned to the relevant Chargors, they shall constitute Monetary Claims.

"Facility Agent" means Barclays Bank PLC

"Facility Agreement" means the senior facilities agreement dated on or about the date hereof made between, among others, Cucina Acquisition (UK) Limited, the Original Borrowers, the Original Guarantors, the Arrangers, the Original Lenders and the Facility Agent and the Security Agent, each as defined in such agreement as amended, varied, novated or supplemented from time to time

"Fee Letter" means

- (a) the fee letter dated 12 July 2007 between the Arrangers, Cucina Finance, the Original Borrower and others relating to arrangement fees pursuant to the Facility Agreement, and
- (b) any letter entered into by reference to the Facility Agreement between one or more Administrative Parties and the Original Borrower setting out the amount of certain fees referred to in the Facility Agreement

"Finance Document" means

- (a) the Facility Agreement,
- (b) the Commitment Letter;
- (c) a Fee Letter,
- (d) the Distribution Letter,
- (e) an Accession Agreement,
- (f) a Transfer Certificate,
- (g) an Ancillary Facility Document,
- (h) the Hedging Letter,
- (i) a Hedging Agreement,
- (j) a Security Document;
- (k) the Intercreditor Deed,
- (l) a Compliance Certificate,
- (m) a Request,
- (n) a Letter of Credit;
- (o) the Report Proceeds Side Letter, and
- (p) any other document designated as such by the Facility Agent and the Original Borrower

"Group" means the original borrower Cucina Acquisition (UK) Limited as original borrower and each of its subsidiaries (which for avoidance of doubt means Brake Bros Holding 1 Limited (the **"Target"**) and Target and its subsidiaries

"Hedge Counterparties" means any financial institution which becomes a Hedge Party in accordance with the intercreditor deed

"Hedging Agreement" has the meaning given to it in the Intercreditor Deed.

"Hedging Letter" means a letter dated on or about the date of this Agreement between the Original Borrower and the Facility Agent relating to the interest rate hedging to be effected by the Group

"Insurance Policy" means any policy of insurance in which a Chargor may from time to time have an interest

"Intellectual Property" means any patents, trade marks, 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, the benefit of all applications and rights to use such assets and all Related Rights

"Intercreditor Deed" means the intercreditor agreement dated on or about the date of this Agreement between, among others, the Parties and Cucina Finance (UK) Limited

"Investments" means

- (a) any stocks, shares, debentures, securities and certificates of deposit (but not including the Shares),
- (b) all interests in collective investment schemes,
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b), and
- (d) in each case whether held directly by or to the order of any Chargor or by any Security Agent, trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such Security Agent, trustee, nominee, fiduciary or clearance system)

"Issuing Bank Accession Agreement" means an issuing bank accession agreement pursuant to the Facility Agreement with such amendments as the Facility Agent and the Original Borrower may agree

"Issuing Bank" Barclays Bank PLC.

"Lender" means

- (a) each Original Lender, or
- (b) any person which becomes a Lender after the date of the Facility Agreement under pursuant to the terms of the Facility Agreement

"Letter of Credit" means a letter of credit, guarantee, bond or other instrument issued or to be issued by the Issuing Bank

"Material Adverse Effect" means a material adverse effect (taking into account, in the case of paragraph (a), funds and insurance and other claims and indemnities available to the Group) on

- (a) the ability of the Group taken as a whole to perform its payment obligations under the facilities, or
- (b) subject to the reservations, the validity, legality or enforceability of the material terms of any finance document or security document to an extent or in a manner which is materially adverse to the interests of the lenders (taken as a whole)

"Material Contract" means (other than any Contracts of Sale) any written contract to which any Chargor is a party, in respect of which the breach, cancellation or failure to renew that contract could reasonably be expected to have a Material Adverse Effect.

"Monetary Claims" means any book and other debts and monetary claims (other than the Excluded Debt Claims) owing to a Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which that Chargor is a party and any other assets, property, rights or undertaking of that Chargor)

"Mortgage" means a mortgage or legal charge in respect of all or any part of the Real Property

"New Chargers" means Brake Bros Acquisition Limited, Brake Bros Finance Limited, Brake Bros Foodservice Limited, Brake Bros Holding I Limited, Brake Bros Holding II Limited, Brake Bros Holding III Limited, Brake Bros Limited, M&J Seafood Limited, Stockflag Limited and W Pauley & Co Limited

"Notice of Assignment" means a notice of assignment in substantially the form set out in Schedule 3 (Form of Notice of Assignment) of the Debenture or in such other form as may be agreed between the Security Agent and a Chargor

"Obligor Accession Agreement" means an obligor accession agreement pursuant to the Facility Agreement with such amendments as the Facility Agent and the Original Borrower may agree

"Offer Document" means the document whereby Bannerbrick Limited (now Cucina Acquisition (UK) Limited) made a recommended offer to acquire all the issued or to be issued share capital of Brake Bros Holding I Limited.

"Original Borrower" means Cucina Acquisition (UK) Limited

"Original Lender" means Barclays Bank PLC, JPMorgan Chase Bank, N A and The Royal Bank of Scotland plc respectively.

"Real Property" means:

- (a) any freehold, leasehold or immovable property,
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property, and

- (c) and includes all Related Rights

"Receivables Financing Facility Documents" means

- (a) the Deed of Consent, Amendment and Restatement between Brake Bros Limited, W. Pauley & Co Limited, Brake Bros Foodservice Limited, Brake Bros Receivables Limited, Brake Bros Holdings II Limited and Barclays Bank PLC acting through its Sales Finance division dated on or about the first Utilisation Date ("**Deed of Consent, Amendment and Restatement**"),
- (b) the Limited Recourse Agreement between Brake Bros Receivables Limited and Barclays Bank PLC acting through its Sales Finance division as amended and restated under the Deed of Consent, Amendment and Restatement, and
- (c) the Deed of Agreement between Brake Bros Limited, W. Pauley & Co Limited, Brake Bros Foodservice Limited, Brake Bros Receivables Limited and Barclays Bank PLC acting through its Sales Finance division as amended and restated under the Deed of Consent, Amendment and Restatement

"Receiver" means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment

"Related Rights" means in relation to any asset

- (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, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any monies and proceeds paid or payable in respect of that asset

"Report Proceeds Side Letter" means the letter to be executed by Bain Capital Limited on or about the date of this Agreement in relation to proceeds received under the reports

"Request" means a request for a Credit (including a rollover credit), pursuant to the Facility Agreement.

"Secured Parties" means the Security Agent, any Receiver or Delegate (as defined in the intercreditor deed), the Facility Agent, the Issuing Bank, each Hedging Counterparty and each Lender from time to time party to the Facility Agreement provided that in the case of the Facility Agent and Lenders such person is party to or has acceded to the intercreditor deed in accordance with its terms

"Security Accession Deed" means a deed of accession executed by a member of the Group in substantially in the form set out in Schedule 1 pursuant to which such member of the Group becomes a party to the Debenture as a Chargor

"Security Agent" means Barclays Bank PLC as security agent for the Secured Parties on the terms and conditions set out in the intercreditor deed. This expression includes any person for the time being appointed as security agent or as an additional security agent for the purpose of, and in accordance with, the intercreditor deed.

"Security Document" means

- (a) each document referred to or entered or required to be entered into under the Facility Agreement, and
- (b) any other document evidencing or creating any guarantee or security over any asset of any Obligor or Cucina Finance to secure any obligation of any Obligor or Cucina Finance to a finance party under the Finance Documents

"Shares" means all of the shares in the capital of Brake Brothers Holding I Limited held by, to the order or on behalf of the Chargor at any time

"Specific Contracts" means the Hedging Agreement, the Acquisition Documents (other than any disclosure letters) and any Material Contract

"Tangible Moveable Property" means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of each Chargor's stock in trade or work in progress) and all Related Rights

"Target" means Brake Bros Holding I Limited

"Target Group" means the Target and its Subsidiaries

"Transfer Certificate" means

- (a) for a transfer by assignment, release and accession, issued pursuant to the Facility Agreement, and
- (b) for a transfer by novation, a certificate issued pursuant to the Facility Agreement,

in each case, with such amendments as the Facility Agent may approve or require (in each case, acting reasonably) or any other form agreed between the Facility Agent and the Original Borrower

"Trust Account" has the meaning given to such term in the Receivables Financing Facility Documents

"Subsidiary" means

- (a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise; or
- (b) an entity treated as a subsidiary in the financial statements of any person pursuant to the Accounting Standards

SCHEDULE 2

AMOUNT SECURED BY MORTGAGE OR CHARGE

The Chargor has covenanted and undertaken with the Security Agent as security agent for the Secured Parties that it shall on demand of the Security Agent discharge all obligations which each Obligor may at any time have to the Security Agent (whether for its own account or as security agent for the Secured Parties) or any of the other Secured Parties under or pursuant to the Finance Documents (including the Debenture and any Mortgage) including any liability in respect of any further advances made under the Finance Documents, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity) and each Chargor shall pay to the Security Agent when due and payable every sum at any time owing, due or incurred by each Chargor to the Security Agent (whether for its own account or as security agent for the Secured Parties) or any of the other Secured Parties in respect of any such liabilities **provided that** neither such covenant or undertaking nor the security constituted by the Debenture or any Mortgage shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law (the "**Secured Obligations**")

SCHEDULE 3

SHORT PARTICULARS OF THE PROPERTY CHARGED

1 FIXED CHARGES

1.1 Each Chargor charges with full title guarantee in favour of the Security Agent as security agent for the Secured Parties with the payment and discharge of the Secured Obligations, by way of first fixed charge (which so far as it relates to land in England and Wales vested in each Chargor at the date of the Debenture (or, if later, the date on which such Chargor accedes as party to the Debenture) shall be a charge by way of legal mortgage) all that Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party):

- (a) the Real Property,
- (b) the Tangible Moveable Property,
- (c) the Accounts,
- (d) the Intellectual Property,
- (e) any goodwill and rights in relation to the uncalled capital of each Chargor,
- (f) the Investments,
- (g) the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise), and
- (h) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the Debenture.

2 ASSIGNMENTS

Each Chargor assigns and agrees to assign absolutely with full title guarantee to the Security Agent as security agent for the Secured Parties as security for the payment and discharge of the Secured Obligations all the Chargor's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party)

- 2.1.1 the proceeds of any Insurance Policy and all Related Rights,
- 2.1.2 all rights and claims in relation to any Assigned Account, and
- 2.1.3 the Specific Contracts

3 FLOATING CHARGE

- 3.1.1 Each Chargor with full title guarantee charges in favour of the Security Agent as security agent for the Secured Parties with the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of that Chargor
- 3.1.2 The floating charge created by paragraph 3.3.1 of the Debenture shall be deferred in point of priority to all fixed Security validly and effectively created by each Chargor under the Finance Documents in favour of the Security Agent as security agent for the Secured Parties as security for the Secured Obligations
- 3.1.3 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 3 (*Floating Charge*)

4 FURTHER ASSURANCE

The Debenture contains covenants for further assurance

5 NEGATIVE PLEDGE

The Debenture contains a negative pledge

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No 04456791

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE ACCESSION DEED DATED THE 10th DECEMBER 2007 AND CREATED BY BRAKE BROS FINANCE LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM EACH OBLIGOR TO BARCLAYS BANK PLC (AS SECURITY AGENT) OR ANY OF THE OTHER SECURED PARTIES 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 13th DECEMBER 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 19th DECEMBER 2007.

LCargels



Companies House

— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES