

MG01

Particulars of a mortgage or charge

029999/20



A fee is payable with this form
We will not accept this form unless you send the correct fee
Please see 'How to pay' on the last page



PGYJP00B

☒ **What this form is for**
You may use this form to register
particulars of a mortgage or charge
in England and Wales or Northern
Ireland

☐ **What this form is for**
You cannot use
particulars of a
company To do
form MG01s

PMO 14/09/2010 496 please
COMPANIES HOUSE

LD2 08/09/2010 286
COMPANIES HOUSE

1 Company details

Company number 04721037

Company name in full NX Infrastructure (Wales) Limited

4 For official use

→ Filling in this form
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Date of creation of charge

Date of creation 24/08/2010

3 Description

Please give a description of the instrument (if any) creating or evidencing the
charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description ✓ Debenture dated 24 August 2010 (the "Debenture") made between NX Infrastructure (Wales)
Limited (the "Company") and Arkbe Limited (the "Lender")

4 Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

4
10 All indebtedness, liabilities and obligations which are now or may at
any time hereafter be due, owing or incurred in any manner
whatsoever to each Finance Party (as defined below) by the
Company and/or the Guarantor (as defined below) under the Finance
Documents (as defined below) whether actually or contingently,
whether solely or jointly with any other person, whether as principal or
surety and whether or not that Finance Party shall have been an
original party to the relevant Finance Document (the "Secured
Obligations")

Continuation page
Please use a continuation page if
you need to enter more details

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Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Name

The Noteholders (defined below)

Address

Postcode

Name

Address

Postcode

Continuation page

Please use a continuation page if you need to enter more details.

6

Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Continuation page

Please use a continuation page if you need to enter more details.

Short particulars

01
96

1 Pursuant to clause 4 1 of the Debenture the Company charges and agrees to charge all the present and future right, title and interest of the Company in and to the following assets which are at any time owned by the Company, or in which the Company from time to time has an interest

1 1 by way of first legal mortgage

(a) the Property (as defined below), and

(b) all other Property (if any) at the date of the Debenture vested in, or charged to the Company (not charged by the provisions set out in paragraph 1 1(a) of this form)

1 2 by way of first fixed charge

(a) all other Property and all interests in Property (not charged by the provisions set out in paragraph 1 1 of this form),

(b) all licences to enter upon or use land and the benefit of all other agreements relating to land,

(c) all plant and machinery (not charged by the provisions set out in paragraphs 1 1 and 1 2 of this form) and the benefit of all contracts, licenses and warranties relating to the same,

(d) all computers, vehicles, office equipment and other equipment (not charged by the provisions set out in paragraph 1 2(c) of this form),

(e) the benefit of all contracts, licenses and warranties relating to paragraph 1 2(d) of this form,

Continued on the continuation pages

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<p>7</p> <p>Commission allowance or discount</p>	<p>Particulars as to commission, allowance or discount (if any)</p> <p>Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his</p> <ul style="list-style-type: none"> - subscribing or agreeing to subscribe, whether absolutely or conditionally, or - procuring or agreeing to procure subscriptions, whether absolute or conditional, <p>for any debentures included in this return The rate of interest payable under the terms of the debentures should not be entered</p> <p>Nil</p>	
<p>8</p>	<p>Delivery of instrument</p> <p>You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860) If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 866)</p> <p>We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 870) The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it Where a body corporate gives the verification, an officer of that body must sign it We will also accept a verified copy where section 867(2) applies (property situated in another part of UK)</p>	
<p>9</p> <p>Signature</p>	<p>Signature</p> <p>Please sign the form here</p> <p>Signature</p> <p>X <i>Bird & Bird LLP</i> X</p> <p>This form must be signed by a person with an interest in the registration of the charge</p>	

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**Presenter information**

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name **Robert Lyne**

Company name **Bird & Bird LLP**

Address **15 Fetter Lane**

Post town **London**

County/Region

Postcode **E C 4 A 1 J P**

Country **UK**

DX

Telephone **020 7415 6000**

**Certificate**

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.

**Checklist**

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee

**Important information**

Please note that all information on this form will appear on the public record

**How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge

Make cheques or postal orders payable to 'Companies House'

**Where to send**

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below

For companies registered in England and Wales

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland

The Registrar of Companies, Companies House,
First Floor, Waterfront Plaza, 8 Laganbank Road,
Belfast, Northern Ireland, BT1 3BS
DX 481 N R Belfast 1

**Further information**

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

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Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>(f) all the Charged Securities (as defined below) together with (i) all Related Rights (as defined below) from time to time accruing to those Charged Securities and (ii) all rights which the Company may have at any time against any clearance or settlement system or any custodian in respect of any Charged Investments (as defined below),</p> <p>(g) all monies standing to the credit of the Company from time to time on any and all accounts with any bank, financial institution or other person not otherwise charged by the provisions set out in paragraph 1 2(h) below,</p> <p>(h) all Receivables (as defined below),</p> <p>(i) the Intellectual Property (as defined below),</p> <p>(j) to the extent that any of the Relevant Contracts (as defined below), the Insurances (as defined below) and all other Receivables (together the "Assigned Assets") are not effectively assigned under Clause 4 2 of the Debenture, by way of first fixed charge those Assigned Assets,</p> <p>(k) the benefit of all licences, consents, agreements and authorisations held or used in connection with the business of the Company or the use of any of its assets,</p> <p>(l) any letter of credit issued in favour of the Company and all bills of exchange and other negotiable instruments held by it, and</p> <p>(m) all goodwill and uncalled capital of the Company</p> <p>2 Pursuant to clause 4 2 of the Debenture the Company assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all its present and future right, title and interest in and to</p> <p>(a) the Relevant Contracts, all rights and remedies in connection with the Relevant Contracts and all proceeds and claims arising therefrom,</p> <p>(b) the Insurances, all claims under the Insurances and all proceeds of the Insurances, and</p> <p>(c) all other Receivables (not otherwise assigned by the provisions set out in paragraphs 2(a) and 2 (b) of this form)</p> <p>3 Pursuant to clause 5 of the Debenture the Company agrees to charge by way of first floating charge all of its present and future</p> <p>(a) assets and undertaking (wherever located) which are not effectively charged by way of first fixed mortgage or charge or assigned under the Debenture, and</p> <p>(b) (whether or not effectively so charged) heritable property and all other property and assets in Scotland</p> <p>Continued on the continuation pages</p>	

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Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>4 Pursuant to clause 10 1 of the Debenture the Company will not do or agree to do any of the following without the prior written consent of the Lender</p> <p>(a) create or permit to subsist any Security (as defined below) on any of the Security Assets (as defined below) (except a lien arising solely by operation of law in the ordinary course of trading), or</p> <p>(b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not), the whole or any part of its interest in any Security Asset</p> <p>5 Pursuant to clause 10 5 1(a) the Company will without prejudice to clause 10 1 of the Debenture (but in addition to the restrictions in that clause), not, without the prior written consent of the Lender, sell, assign, charge, factor or discount or in any other manner deal with any of the Receivables</p> <p>6 Pursuant to clause 10 8 1 of the Debenture the Company will not, except with the prior written consent of the Lender, amend or waive any term of any Relevant Contract, terminate any Relevant Contract or release any other party from its obligation under any Relevant Contract</p> <p>7 Definitions</p> <p>"Charged Investments" means the Charged Securities and all present and future Related Rights accruing to all or any of the Charged Securities</p> <p>"Charged Securities" means the shares specified in schedule 3 of the Debenture and charged by NX Infrastructure Limited which are</p> <p>(i) 1 ordinary share held by NX Infrastructure (Wales) Limited</p> <p>(ii) 1 ordinary share held by East Shore Capital Limited</p> <p>(iii) 100 shares of common stock held by NX Infrastructure Inc</p> <p>and all other stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "investments" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 in force at the date of the Debenture) now or in future owned (legally or beneficially) by the Company or in which the Company has an interest at any time</p> <p>"Fee Letter" means a letter dated on or about the date of the Debenture addressed to NX Infrastructure Limited and signed by the Lender</p> <p>"Finance Document" means the Debenture, the Loan Note Instrument (as defined below), the Loan Notes (as defined below), the Guarantee (as defined below) and the Fee Letter (as defined above)</p> <p>"Finance Parties" means the Noteholders and the Security Trustee (as defined below)</p> <p>"Guarantee" means a Guarantee entered into on 2 June 2008 by the Guarantor in favour of the Lender as confirmed, amended, supplemented novated or restated from time to time</p> <p>Continued on the continuation pages</p>	

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6	Short particulars of all the property mortgaged or charged	
Short particulars	<p>Please give the short particulars of the property mortgaged or charged</p> <p>"Guarantor" means the Company</p> <p>"Insurances" means all policies of insurance (and all cover notes) which are at any time held by or written in favour of the Company or in which the Company from time to time has an interest</p> <p>"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 and the benefit of all applications and rights to use such assets</p> <p>"Loan Note Instrument" means the Loan Note Instrument constituting £10,000,000 secured convertible loan notes 2009 dated 2 June 2008 and made between NX Infrastructure Limited and the Lender as amended and increased pursuant to a Deed of Amendment No 1 dated 7 August 2008, a Deed of Amendment No 2 dated 2 June 2008, a Deed of Amendment No 3 dated 11 December 2008, a Deed of Amendment No 4 dated 1 June 2009, a Deed of Amendment No 5 dated 1 June 2010 and a Deed of Amendment No 6 dated on or about the date of the Debenture and as further amended, supplemented, novated or restated from time to time</p> <p>"Loan Notes" means the secured convertible loan notes 2009 constituted by the Loan Note Instrument</p> <p>"Noteholder" means the registered holders or holder for the time being entered in the register to be maintained by the Company as the holders of any Loan Notes</p> <p>"Property" means all estates and interests in freehold, leasehold and other immovable property (wherever situated) at the date of the Debenture, or at any time thereafter, belonging to the Company, or in which the Company has an interest at any time (including the registered property and unregistered land (if any) in England and Wales specified in schedule 2 of the Debenture, this being part of the land comprised in the title number WA132235 and the address The Wern Works, Briton Ferry, Neath, Port Talbot, together with</p> <p>(i) all buildings and fixtures (including trade fixtures) and fixed plant and machinery at any time thereon,</p> <p>(ii) all easements, rights and agreements in respect thereof,</p> <p>(iii) all proceeds of sale of that property, and</p> <p>(iv) the benefit of all covenants given in respect thereof</p> <p>Continued on the continuation pages</p>	

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Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged
Short particulars	<p data-bbox="339 367 1026 396">Please give the short particulars of the property mortgaged or charged</p> <p data-bbox="339 434 1463 667">"Receivables" means all present and future book debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Company (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with the benefit of all rights, guarantees, Security and remedies relating to any of the foregoing (including without limitation, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights) and all proceeds of any of the foregoing</p> <p data-bbox="339 705 1031 734">"Related Rights" means, in relation to any Charged Securities</p> <p data-bbox="339 772 1442 835">(i) all dividends, distributions and other income paid or payable on the relevant Charged Securities or any asset referred to in paragraph (ii) below,</p> <p data-bbox="339 873 1458 967">(ii) all rights, monies or property accruing or offered at any time in relation to the Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise</p> <p data-bbox="339 1005 1442 1099">"Relevant Contract" means each of the agreements specified in schedule 5 of the Debenture (this being none) together with each other agreement supplementing or amending or novating or replacing the same</p> <p data-bbox="339 1137 1453 1200">"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</p> <p data-bbox="339 1238 1449 1301">"Security Assets" means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to the Debenture</p> <p data-bbox="339 1339 1417 1440">"Security Trustee" means Arkbe Limited incorporated and registered in England and Wales with company number 05378662 whose registered office is at Harwood House, 43 Harwood Road, London SW6 4QP</p>

PROFORMA

Company Number **04721037**

Company Name **NX Infrastructure (Wales) Limited**

Contact Name/ Organisation. **Robert Lyne, Bird & Bird LLP**

Address **15 Fetter Lane, London, EC4Y 0DD**

- **The following details will need to be added, amended or deleted to the Form MG01/LL MG01/MG01s/LL MG01s/OS MG01/MG09/LL MG09**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of Creation of Charge ☐

Description ☐

Amount Secured ☐

Mortgagee(s) or person(s) entitled to the charge ☒

Short particulars of all the property mortgaged or charged ☐

Date charge presented
(applies to MG09/LL MG09) ☐

Date of execution
(applies to MG09/LL MG09) ☐

Date and parties to the charge
(applies to MG09/LL MG09) ☐

Jurisdiction
(applies to MG09/LL MG09) ☐

Floating charge statement
(applies to MG01s/LLMG01s/OSMG01) ☐

- The following details will need to be added, amended or deleted to the Form MG06/LL MG06/MG06s/LL MG06s

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of creation of charge	<input type="checkbox"/>
Description	<input type="checkbox"/>
Date of acquisition	<input type="checkbox"/>
Amount secured	<input type="checkbox"/>
Mortgagee(s) or person(s) entitled to the charge	<input type="checkbox"/>
Short particulars of all the property Mortgaged or charged	<input type="checkbox"/>

- The following details will need to be added, amended or deleted to the Form MG07/MG07s/LLMG07/LLMG07s/OSMG04

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of covering deed	<input type="checkbox"/>
Total amount secured	<input type="checkbox"/>
Date of present issue	<input type="checkbox"/>
Amount of present issue	<input type="checkbox"/>
Date of resolution	<input type="checkbox"/>
Name of Trustee(s)	<input type="checkbox"/>
General description of property	<input type="checkbox"/>
Floating charge statement (applies to MG07s/LLMG07s/OSMG04)	<input type="checkbox"/>

(Please give the instructions in the box below)

Mortgagee(s) or person(s) entitled to the charge

Name Arkbe Limited

Address Harwood House, 43 Harwood Road, London

Postcode SW6 4QP



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 4721037
CHARGE NO. 4**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEBENTURE DATED 24 AUGUST
2010 AND CREATED BY NX INFRASTRUCTURE (WALES)
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME
DUE FROM THE COMPANY AND/OR THE GUARANTOR TO
EACH 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 25 OF THE COMPANIES ACT
2006 ON THE 14 SEPTEMBER 2010

GIVEN AT COMPANIES HOUSE, CARDIFF THE 14 SEPTEMBER
2010



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

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