

M

CHFP025

Please do not
write in
this margin

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 £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

4992358

Name of company

* Domain West Street Management Limited (the "Chargor")

Date of creation of the charge

17 March 2004

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

Guarantee and Debenture dated 17 March 2004 made between the Chargor (1)
and The Governor and Company of the Bank of Scotland in its capacity as
Subordinated Security Agent (as defined in the attached schedule) (2)
(the "Debenture")

Amount secured by the mortgage or charge

See Part II of the attached Schedule

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

The Governor and Company of the Bank of Scotland, Level 7, Bishopsgate
Exchange, 155 Bishopsgate, London (in its capacity as Subordinated
Security Agent)

Postcode EC2M

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

Lovells
Atlantic House
Holborn Viaduct
London
EC1A 2FG

F3/MJC/PRM/1305078

Time critical reference

For official Use
Mortgage Section

Post room



A19
COMPANIES HOUSE

0626
23/03/04

Short particulars of all the property mortgaged or charged

See Parts III, IV and V of the attached schedule

The attached schedule refers to covenants by, and restrictions on, the Chargor which protect and further define the charges created by the Debenture and which must be read as part of those charges.

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)

Not applicable

Signed

Date

19 March 2004

On behalf of ~~[company]~~ ^{Solicitors} ~~[mortgagee/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

SCHEDULE TO FORM 395 FOR DOMAIN WEST STREET MANAGEMENT LIMITED

Part I

Definitions

In this Form 395, references to Clauses and Schedules are to Clauses of, and Schedules to, the Debenture unless otherwise specified.

In this Form 395 words or expressions defined in the Facilities Agreement (as defined below) shall, unless otherwise defined below, bear the same meaning in this Form 395 and, in addition, in this Form 395 (so far as the context admits) the following expressions have the following meanings:

"Assets" means all the Chargor's undertaking, property, assets, rights and revenues whatever, present or future, wherever situated in the world and includes each or any of them;

"Atlantic Point" means the student housing development adjacent to Leeds Street, Liverpool with title number M5416906;

"Beneficiaries" means collectively the Subordinated Agent, the Subordinated Security Agent, and the Subordinated Lenders and includes any one or more of them and **"Beneficiary"** shall be construed accordingly;

"Collection Account" means any account so designated by the Security Trustee;

"Companies" means the Chargor together with any other Group Companies from time to time, and (where the context permits) includes each or any of them and **"Company"** shall be construed accordingly;

"Cost Overruns Undertaking" means the deed of made between the Principal Borrower and Moorfield Group PLC (registered number 01766196) setting out the terms of Moorfield's undertaking in respect of cost overruns in completion of Atlantic Point;

"Debenture Date" means 17 March 2004;

"Facilities Agreement" means the facilities agreement dated 7 March 2000 made between Moorfield (Atlantic Point) Limited (as Principal Borrower) (1), the other Companies listed in Schedule 1 thereto (as Borrowers) (2), The Governor and Company of the Bank of Scotland (as Arranger) (3), The Governor and Company of the Bank of Scotland (as Underwriter) (4), The Governor and Company of the Bank of Scotland (as Agent) (5), The Governor and Company of the Bank of Scotland (as Working Capital Bank) (6) and The Governor and Company of the Bank of Scotland (as Security Trustee) (7), as amended by an amendment and restatement deed dated 28 February 2002 (the **"First Restatement Deed"**) and further amended by an amendment and restatement deed dated 29 May 2003 (the **"Second Restatement Deed"**), and the term **"Facilities Agreement"** shall include any further amendments, supplements, accessions, variations or additions to such agreement, however fundamental, including changes to the facilities provided or increases in their maximum amount;

"Floating Charge Assets" means, in so far only as concerns the floating charge created by clause 3.1(p), Assets for the time being comprised within such floating charge;

"Group " means, at any time the Principal Borrower and its Subsidiaries at any time (including any future-acquired or incorporated Subsidiaries) and **"Group Company"** means any of them;

"Guarantor" means any Company in so far only as it covenants under clause 2.1(b) to pay or discharge money due or owing from or liabilities of other Companies to the Beneficiaries and **"Guarantors"** and **"Guarantee"** shall be construed accordingly;

"Intellectual Property Rights" means all the Chargor's patents, trade marks, service marks (and all goodwill associated with them), all brand and trade names, all copyrights and rights in the nature of copyright, database rights, design rights and registered designs, all documented trade secrets and know-how and all other intellectual property rights now or in the future owned or enjoyed by the Chargor, all applications for the protection of any such rights in any part of the world and the benefit of all agreements and licences now or in the future entered into or enjoyed by the Chargor relating to the use or exploitation of any such rights and includes each or any of them and **"Intellectual Property Right"** shall be construed accordingly;

"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);

"Principal" means any Company in so far only as it owes money or has incurred liabilities to a Beneficiary except as a Guarantor;

"Principal Borrower" means Moorfield (Atlantic Point) Limited (registered number 3633307);

"Realisation Account" means an interest -bearing Sterling deposit account in the name of the Principal borrower opened in the books of the Agent;

"Receivables" means all sums of money receivable by the Chargor at the Debenture Date or in the future consisting of or payable under or derived from any of its Assets and **"Receivable"** shall be construed accordingly;

"Secured Sums" means all money and liabilities covenanted and/or guaranteed to be paid or discharged by the Chargor to the Beneficiaries under clause 2.1;

"Securities" means all stocks, shares, debentures and loan stocks issued by any company or person and all other investments (whether or not marketable) now or in the future owned at law or in equity by the Chargor, including all interests in investment funds and all rights and benefits arising and all money payable in respect of any of them, whether by way of conversion, redemption, bonus, option, dividend, interest or otherwise, and including all Securities owned by the Chargor in any other Company;

"Security Documents" means the Subordinated Security (as defined in the Subordination Deed);

"Subordinated Finance Documents" means the Subordinated Loan Instrument, this Debenture and the other Subordinated Security and the Subordinated Loan Stock Fees Letter or 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 documents or agreements entered into from time to time which are otherwise Subordinated Finance Documents;

"Subordinated Agent" means The Governor and Company of the Bank of Scotland as agent for the Subordinated Lenders under the Subordinated Loan Instrument;

"Subordinated Lenders" means the financial institutions listed in Schedule 2 of the Subordination Deed as Subordinated Lenders;

"Subordinated Loan Instrument" means the loan stock instrument dated 7 March 2000 entered into by the Principal Borrower, as amended by an amendment deed dated 28 February 2002 and as further amended by an amendment deed dated 29 May 2003 and

including any other amendments, supplements, accessions, variations or additions to such instrument, however fundamental;

"Subordinated Security" has the meaning given to it in the Subordination Deed;

"Subordinated Loan Stock Fees Letter" has the meaning given to it in the Subordination Deed;

"Subordinated Security Agent" means The Governor and Company of the Bank of Scotland acting as subordinated security agent for the Beneficiaries and includes any successor appointed by the Beneficiaries pursuant to clause 31 of the Debenture;

"Subordination Deed" means the subordination deed dated 7 March 2000 and made between The Governor and Company of the Bank of Scotland (as Senior Agent) (1), The Governor and Company of the Bank of Scotland (as Senior Security Trustee) (2), the Senior Creditors named therein (3), The Governor and Company of the Bank of Scotland (as Subordinated Agent) (4), The Governor and Company of the Bank of Scotland (as Subordinated Security Agent) (5), the Subordinated Lenders named therein (6), the Investors named therein (7), Moorfield (Atlantic Point) Limited (as Principal Borrower) (8) and the Obligors named therein (9) which expression shall include any amendments, supplements, accessions, variations or additions to such deed, however fundamental;

"Subsidiary" means a subsidiary as defined in Section 736 of the Companies Act 1985;

"writing" includes telex, facsimile transmission and any other mode of representing or reproducing words in a legible and non-transitory form, except in relation to any certificate, notice or other document which is expressly required by this Debenture to be signed, and **"written"** has a corresponding meaning.

Part II

Amount secured by mortgage or charge

All money and liabilities at the Debenture Date or in the future due, owing or incurred to each Beneficiary under or pursuant to the Subordinated Finance Documents:

- (a) by the Chargor, and
- (b) by each other Company

in each case 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 any Company or its affairs and so that interest shall be computed and compounded in accordance with the Subordinated Finance Documents (after as well as before any demand or judgment).

Part III

Particulars of property mortgaged or charged

1. By Clause 3 (*Charging Clause*) the Chargor, with full title guarantee, as security for the payment or discharge of all Secured Sums, charged to the Subordinated Security Agent:
 - (a) by way of legal mortgage, all freehold and leasehold Land in England and Wales now vested in it and registered at HM Land Registry;
 - (b) by way of legal mortgage, all other freehold and leasehold Land in England and Wales now vested in it and not registered at HM Land Registry, including the Land described in Part V of this Schedule;
 - (c) by way of fixed charge, all Land in the future becoming the property of it;
 - (d) by way of fixed charge, all interests in Land or the proceeds of sale of Land now or in the future belonging to it which have not already been charged under the preceding provisions of clause 3.1 and all licences now or in the future held by the Chargor to enter upon, use or exploit Land and the benefit of all options, easements, agreements for lease and other agreements relating to the acquisition, use, exploitation or disposal of Land to which the Chargor is or may in the future become entitled;
 - (e) by way of fixed charge, all plant and machinery of the Chargor now or in the future attached to any Land which, or an interest in which, is charged under the preceding provisions of clause 3.1 and all rights and interests of the Chargor under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached;
 - (f) by way of fixed charge, all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
 - (g) by way of fixed charge, all Securities belonging to it;
 - (h) by way of fixed charge, all contracts and policies of insurance and assurance now or in the future held by or otherwise benefiting it and all rights and interests of the Chargor in every such contract and policy (including the benefit of all claims arising and all money payable under such contracts and policies);
 - (i) by way of fixed charge, all the goodwill and uncalled capital for the time being of the Chargor;
 - (j) by way of first fixed charge, all Intellectual Property Rights of it, excluding (but only to the extent that and for so long as it is not capable of being validly charged by way of fixed charge) the benefit of any present or future agreement or licence relating to such rights;
 - (k) by way of fixed charge, all book and other debts now or in the future owing to it and all rights and claims of the Chargor against third parties, present and future, capable of being satisfied by the payment of money (except rights and claims effectively charged under the preceding provisions of clause 3.1);
 - (l) by way of fixed charge, the benefit of all negotiable instruments, guarantees, bonds, debentures, legal or equitable charges and all other security, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all other rights and

remedies now or in the future available to it as security for any Receivable or for the performance by any third party of any obligation now or in the future owed to it;

- (m) by way of fixed charge, all money at any time standing to the credit of any Collection Account relating to it, including the proceeds of all its Receivables, which proceeds shall, for the avoidance of doubt, on payment into such Collection Account cease to be subject to the charges contained in the preceding provisions of clause 3.1 but shall be subject to the fixed charge referred to in paragraph (m) of clause 3.1;
 - (n) by way of fixed charge, all money at any time standing to the credit of any Realisation Account;
 - (o) by way of fixed charge, all money at any time standing to the credit of any other bank account relating to the Chargor; and
 - (p) by way of floating charge:
 - (i) all Assets now or in the future owned by the Chargor except to the extent that such Assets are for the time being effectively charged by any fixed charge contained in the preceding provisions of clause 3.1, including any Assets comprised within a charge which is reconverted under clause 3.6; and
 - (ii) without exception all Assets in so far as they are for the time being situated in Scotland,
2. By Clause 3.2 of the Debenture, the Chargor with full title guarantee assigned to the Subordinated Security Agent, but subject to the right of the Chargor to redeem such assignment upon the full payment or discharge of all Secured Sums:
- (a) all claims of the Chargor against all persons who are at the Debenture Date or in the future the lessees, sub-lessees or licensees of its Land and all guarantors and sureties for the obligations of such persons;
 - (b) the benefit of all guarantees, contracts, appointments, warranties and representations given or made to the Chargor by, and any rights or remedies against, all or any of the manufacturers, suppliers or installers of any fixtures at the Debenture Date or in the future attached to such Land;
 - (c) the benefit of all rights and claims to which the Chargor is at the Debenture Date 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 such Land;
 - (d) all rights and claims to which the Chargor is at the Debenture Date or in the future entitled against any builder, contractor or professional adviser engaged in relation to such Land or property development or works, including, without limitation, under any collateral warranty, contracts, appointments or similar agreement; and
 - (e) the benefit of all rights and claims to which the Chargor is at the Debenture Date or in the future entitled under or in respect of any joint venture, partnership or similar arrangement or agreement including, but not limited to, the Cost Overruns Undertaking.

Part IV

Covenants and Restrictions

1. By clause 3.1(p) of the Debenture, the Chargor agreed that it shall not create any mortgage or any fixed or floating charge or other security over any Floating Charge Asset (whether having priority over, or ranking *pari passu* with or subject to, the floating charge created by clause 3.1(p) of the Debenture) or take any other step referred to in clause 6.1(a) of the Debenture with respect to any Floating Charge Asset and the Chargor agreed that it shall not, without the prior written consent of the Subordinated Security Agent, sell, transfer, part with or dispose of any Floating Charge Asset except by way of sale in the ordinary course of its business.
2. By clause 3.3 of the Debenture, the Chargor agreed that the floating charge created by it under clause 3.1(p) of the Debenture may be crystallised into a fixed charge by notice in writing by the Subordinated Security Agent to the Chargor:
 - (a) at any time following the occurrence of an Event of Default; or
 - (b) in respect of any property charged under clause 3 of the Debenture, whilst the security over it is in jeopardy or where such property is in danger of seizure.

Such crystallisation shall take effect over such Floating Charge Assets or class or classes of Floating Charge Assets as shall be specified in the notice. If no Floating Charge Assets are so specified, it shall take effect over all Floating Charge Assets of the Chargor.

3. By clause 3.4 of the Debenture, the Chargor agreed that if the Chargor, without the Subordinated Security Agent's prior written consent, resolves to take or takes any step to charge (whether by way of fixed or floating charge) or otherwise encumber any of its Floating Charge Assets or to create a trust over any such Floating Charge Asset or to dispose of any such Floating Charge Asset except by way of sale or other disposition in the ordinary course of the Chargor's business, or if any person resolves to take or takes any step to levy any distress, execution, sequestration or other process against any Floating Charge Asset, then the floating charge created by clause 3.1(p) of the Debenture shall be automatically crystallised (without the necessity of notice) into a fixed charge over such Floating Charge Asset instantly on the occurrence of such event.
4. By clause 3.8 of the Debenture, the Chargor agreed that any debentures, mortgages or charges (fixed or floating) created in the future by the Chargor (except those in favour of the Subordinated Security Agent) shall be expressed to be subject to the Debenture and shall rank in order of priority behind the charges created by the Debenture.
5. By Clause 6 (*Negative Pledge and other restrictions*) the Chargor agreed that it would not, without the prior written consent of the Subordinated Security Agent (and with the exception of Permitted Encumbrances):
 - (a) create, or agree or attempt to create, or permit to subsist, any mortgage, fixed or floating charge, pledge or other security of any kind (including any security conferring power to convert a floating charge into a fixed charge in relation to any Asset) or any trust over any of its Assets, or permit any lien (other than a lien arising by operation of law in the ordinary course of its business) to arise or subsist over any such Asset; and
 - (b) sell, assign, lease, license or sublicense, 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 a copy of any such Intellectual Property Right.

6. By Clause 9.2 (*General Covenants*), the Chargor agreed that it would not, without prior written consent of the Subordinated Security Agent which shall not be unreasonably withheld or delayed, seek to compromise, compound, discharge, postpone, release, set-off, settle or subordinate any of its Receivables or waive its rights of action in connection with them, or do or omit to do anything which may delay or prejudice their full recovery.
7. By Clause 11.2 (*Property Covenants*), the Chargor agreed that, save as permitted under the Senior Facilities Agreement, it would not without the prior written consent of the Subordinated Security Agent:
 - (a) erect any building or make any structural alteration or apply for any planning consent for the development or change of use of any such Land, or (save in the ordinary course of repair, replacement or improvement) at any time sever, remove or dispose of any fixture on it; and/or
 - (b) enter into onerous or restrictive obligations affecting any such Land or create or permit to arise any overriding interest or any easement or right whatever in or over it which might adversely affect its value or the value of the security over it.
8. By Clause 12 (*Covenants relating to Intellectual Property*), the Chargor agreed that it shall not unless the Subordinated Security Agent otherwise agrees in writing:
 - (a) sell, assign, transfer, license or agree to license any Intellectual Property Rights or any interest therein or permit any third party to use such Intellectual Property Rights;
 - (b) alter any specification for which any Trade Mark has been registered or give its consent to registration by a third party of any trade mark the same or confusingly similar to any Trade Mark.
9. By Clause 13 (*Leases, possession of land and consolidation of mortgages*), the Chargor agreed with the Subordinated Security Agent that it would not, without the prior written consent of the Subordinated Security Agent:
 - (a) exercise any power of leasing, or accepting surrenders of leases of, any Land, nor (save where obliged to do so by law) extend, renew or vary any lease or tenancy agreement or give any licence to assign or underlet, save that in respect of the Land specified in Part V of this Schedule the Subordinated Security Agent is deemed to consent to the granting of tenancies not exceeding 364 days to Students or Student Nurses (as defined in an agreement dated 23 June 1999 made between (1) Liverpool City Council and (2) Moorfield (Atlantic Point) Limited) and in relation to other Land provided that such tenancies constitute assured shorthold tenancies (within the meaning of the Housing Act 1996); or
 - (b) part with possession (except on the determination of any lease, tenancy or licence granted to the Chargor) of any Land or share the occupation of it with any other person, or agree to do so.

Part V

**Unregistered Land mortgaged under Clause 3.1 (*Charging Clause*)
of the Debenture.**

Description of Property
A lease in respect of land at West Street, Harnall Row and Sky Blue Way, Coventry CV1 dated 17 March 2004 for a term of 99 years commencing on 17 March 2004 and made between (1) Domain West Street Limited and (2) The Chargor

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04992358

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT GUARANTEE & DEBENTURE DATED THE 17th MARCH 2004 AND CREATED BY DOMAIN WEST STREET MANAGEMENT LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY AND BY EACH OTHER 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 23rd MARCH 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 29th MARCH 2004.

PCngels.



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

— for the record —