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**M****COMPANIES FORM No. 395****Particulars of a mortgage or charge****395**

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

CHFP025

Please do not write in this margin

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

\*insert full name of Company

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

[312]

6081055

Name of company

\* Ark Corporate Member Limited

Date of creation of the charge

1 January 2009

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

See Part II of the attached Schedule.

Amount secured by the mortgage or charge

See Part III of the attached Schedule.

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

Lloyds TSB Bank plc  
25 Gresham Street  
London

Postcode EC2V 7HN

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

Lovells  
Atlantic House  
Holborn Viaduct  
London  
EC1A 2FG

C1DS/2057206.01

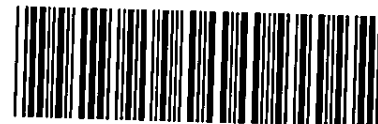
Time critical reference

For official Use (06/2005)

Mortgage Section

Post room

WEDNESDAY



\*LCEKJ6BV\*

LD4

07/01/2009

327

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

See Parts IV and V of the attached Schedule.

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)

Signed

*Lovell LLP*

Date

*6/1/2009*

On behalf of ~~XXXXXXXXXXXX~~ (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

## SCHEDULE TO FORM 395

### PART I

#### Definitions

**"Agreement"** means the £15,000,000 standby facility agreement of even date herewith made between (1) the Syndicate 4020 2007 Borrower Group, (2) the Syndicate 4020 2008 Borrower Group, (3) the Syndicate 4020 2009 Borrower Group, (4) the Managing Agent and (5) the Bank.

**"Charged Assets"** means the assets for the time being charged to the Bank by or pursuant to the Deed.

**"Cash Call"** means a request for the payment of funds made by a managing agent to an underwriting member of Lloyd's under the terms of the standard managing agent's agreement (general) or the standard managing agent's agreement (corporate member) (within the meaning of the Agency Agreements Byelaw (No. 8 of 1988)).

**"Company"** means Ark Corporate Member Limited, a limited company incorporated in England and Wales (registered number 6081055), an underwriting member of Lloyd's which is a member of the Syndicate as constituted for the 2008 year of account.

**"Dollar Special Account"** means a separate trust account opened on behalf of the Dollar Trustees pursuant to Clause 5 of the Deed.

**"Dollar Trust Fund"** means the trust fund constituted by Lloyd's American Instrument, being supplemental as regards the Company to its Lloyd's Premiums Trust Deed (General Business), in accordance with the provisions thereof.

**"Encumbrance"** means:

- (a) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person;
- (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
- (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

**"Enforcement Event"** means any of the following events:

- (a) any event or circumstance specified as an Event of Default in Clause 24 of the Agreement;
- (b) the breach by any party (other than the Bank) of any provision of the Deed which, if capable of remedy, is not remedied within five business days after the Bank has given notice thereof to the Managing Agent; and
- (c) an event or the receipt by the Bank of any information or the coming to the attention of the Bank of any matter or thing whatsoever which causes the Bank to believe that all or part of the security by the Deed constituted, or intended to be constituted, is for any reason whatsoever in jeopardy.

**"Finance Document"** means the Agreement, any Fee Letter (as defined in the Agreement) and any other document designated as such by the Bank and the Managing Agent.

**"Lloyd's"** means the Society incorporated by Lloyd's Act 1871 by the name of Lloyd's.

**"Obligations"** means all sums and liabilities to be paid and discharged by the Company as a member of the Syndicate 4020 2008 Borrower Group, the subject of the covenant contained in Clause 2.1 of the Deed.

**"Receiver"** means any person appointed to be a receiver, manager or receiver and manager (and any other person appointed in his place or to act together with or independently of him) by the Bank under or pursuant to the Deed.

**"Reinsurance Programme"** means, in relation to the Syndicate, a reinsurance programme comprising contracts of reinsurance taken out on behalf of the Syndicate, whether before or at any time after the date of the Agreement, under which risks insured by the Company are reinsured.

**"Syndicate"** means Syndicate No. 4020, being an underwriting members of Lloyd's or a group of underwriting members of Lloyd's underwriting insurance business at Lloyd's through the agency of the Managing Agent, to which the syndicate number aforesaid is assigned by the Council of Lloyd's.

**"Syndicate 4020 2008 Borrower Group"** means the underwriting members of Lloyd's comprising Syndicate No. 4020 as constituted for the 2008 year of account.

Any reference to:

- (a) **"assets"** is to be construed so as to include all and any right, title, interest and chose in action whatsoever;
- (b) a **"Lender"** is to be construed so as to include its and any subsequent successors in title, permitted assigns and permitted transferees in accordance with their respective interests;
- (c) **"dollars"** denotes lawful currency of the United States of America;
- (d) the **"Managing Agent"** is to be construed so as to include any person who is for the time being acting as managing agent for the Company in place of the Managing Agent pursuant to an appointment under the Underwriting Byelaw (No. 2 of 2003) and any person to whom all or any of the services to be provided, the duties to be performed and the powers to be exercised by the Managing Agent may have been delegated at any time; and
- (e) a **"person"** is to be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.

## **PART II**

### **Description of the instrument creating or evidencing the charge**

A Deed of Charge dated 1 January 2009 (the "**Deed**") and made between (1) the Company and another, (2) the trustees for the time being of Lloyd's American Instrument 1995 (General Business of Corporate Members), being supplemental as regards the Company to its Lloyd's Premiums Trust Deed (General Business), designated in respect of the Managing Agent as the Managing Agent's Dollar Trustees (the "**Dollar Trustees**"), (3) Ark Syndicate Management Limited (the "**Managing Agent**") and (4) Lloyds TSB Bank plc (the "**Bank**").

## **PART III**

### **Amount secured by the mortgage or charge**

By Clause 2.1 of the Deed, the Managing Agent on behalf of the Company covenants with the Bank that the Company will on demand of the Bank discharge when the same falls due each and every liability which the Company may at any time have to the Bank under or pursuant to the Agreement as a member of the Syndicate 4020 2008 Borrower Group and will pay to the Bank every sum (of principal, interest or otherwise) now or thereafter owing, due or incurred by the Company to the Bank in respect of any such liability.

## **PART IV**

### **Short particulars of the property mortgaged or charged**

1. By Clause 3.1 of the Deed, the Dollar Trustees charge to the Bank with the payment and discharge of the Company's Obligations, if and to the extent that such assets are or are liable in the future to become comprised in that part of the Dollar Trust Fund in relation to which the Managing Agent has power to give directions:
  - (a) by way of first fixed charge, all right, title and interest of the Dollar Trustees in and to the moneys at any time standing to the credit of any Dollar Special Account (including any chose in action representing the right of the Dollar Trustees to be paid the same); and
  - (b) by way of first floating charge, all right, title and interest of the Dollar Trustees in and to the reinsurance recoveries which are at any time due under the Syndicate's Reinsurance Programme in respect of gross claims paid on behalf of the Company.
2. By Clause 3.2 of the Deed, the Managing Agent on behalf of the Company charges to the Bank with the payment and discharge of the Company's Obligations, by way of first fixed charge, all right, title and interest of the Company in and to:
  - (a) the benefit of any contract of reinsurance at any time comprised in the Syndicate's Reinsurance Programme not otherwise expressed to be charged by the Deed or any other Finance Document; and
  - (b) the benefit of any letter of credit, guarantee, deposit or security issued, made or given at any time in respect of the performance of a reinsurer's obligations under any such contract of reinsurance.

## **PART V**

### **Covenants and restrictions**

1. By Clause 6.1 of the Deed, the Dollar Trustees and the Managing Agent on its own behalf and on behalf of the Company covenant with the Bank from time to time, upon request, to do any act or thing and to execute such further deeds or other documents (in such form as the Bank or such Receiver may specify) as the Bank or any Receiver may reasonably require for the improvement or perfection of the security intended to be conferred on the Bank by the Deed.
2. By Clause 6.2 of the Deed, without prejudice to the generality of Clause 6.1 thereof, the Managing Agent is, if so requested by the Bank, to give or concur in the giving:
  - (a) to the Company;
  - (b) to Lloyd's;
  - (c) to such banks with which any account of the Syndicate denominated in any currency is opened or maintained from time to time (moneys at any time standing to the credit of which are charged under or pursuant to the Deed) as it may require;
  - (d) to such reinsurers liable to pay reinsurance recoveries (to the extent charged under the Deed) as it may require; and
  - (e) to such insurance brokers of the Syndicate liable to receive payment of the same in the ordinary course of business as it may require;notice (in such form as the Bank may specify) of the security constituted by the Deed.
3. By Clause 7.1 of the Deed, the Dollar Trustees and the Managing Agent on its own behalf and on behalf of the Company undertake that at no time during the subsistence of the security constituted by the Deed will they, otherwise than in favour of the Bank or with the Bank's prior written consent and in accordance with any conditions which the Bank may attach thereto, create or grant (or direct the creation or grant of), extend or permit to subsist any Encumbrance (howsoever ranking or purporting to rank in relation thereto) on or over the Charged Assets or any part thereof.
4. By Clause 7.2 of the Deed, the Dollar Trustees and the Managing Agent on its own behalf and on behalf of the Company undertake that at no time during the subsistence of the security constituted by the Deed will they, otherwise than with the Bank's prior written consent, sell or otherwise dispose of or agree to sell or otherwise dispose of all or any part of the Charged Assets or create or agree to create any equitable interest in or over the same.
5. By Clause 8.1 of the Deed, the Managing Agent is at all times during the subsistence of the security thereby constituted to deal with all or any such funds as may be raised on a Cash Call made pursuant to Clause 23.6 of the Agreement in accordance with any directions which the Bank may give to the Managing Agent including a direction that the Managing Agent procure that the same are paid into such account or accounts (whether or not with the Bank) as the Bank may require.

6. By Clause 8.2 of the Deed, the Managing Agent is at any time after an Enforcement Event to deal with all or any reinsurance recoveries which are at any time due or anticipated under the Syndicate's Reinsurance Programme in respect of gross claims paid or gross notified outstanding claims payable on behalf of the Company, to the extent that the same are charged under or pursuant to the Deed, in accordance with any directions which the Bank may give to the Managing Agent including a direction that the Managing Agent procure that the same are paid into such account or accounts (whether or not with the Bank) as the Bank may require.
7. By Clause 9.2(c) of the Deed, the Managing Agent is not, during the subsistence of the security constituted by the Deed, to do or omit to do any thing which would or might render any contract of reinsurance comprised in the Syndicate's Reinsurance Programme invalid, void, voidable or unenforceable, or any moneys payable thereunder repayable in whole or in part, under the laws of any jurisdiction.
8. By Clause 9.2(d) of the Deed, the Managing Agent is not at any time during the subsistence of the security constituted by the Deed, on behalf of the Company, otherwise than with the Bank's prior written consent (such consent not to be unreasonably withheld) and in accordance with any conditions which the Bank may attach thereto, to:
  - (i) make or agree to any variation or amendment of any contract of reinsurance comprised in the Syndicate's Reinsurance Programme which may reduce the amount of any reinsurance recoveries becoming payable thereunder;
  - (ii) enter into any arrangement with a reinsurer for the discharge or release of all or part of the reinsurer's obligations or liabilities under any such contract of reinsurance; or
  - (iii) settle, compromise or abandon any claim under any such contract of reinsurance.
9. By Clause 10.2 of the Deed, the Managing Agent undertakes that at no time during the subsistence of the security thereby constituted will it, otherwise than with the Bank's prior consent and in accordance with any conditions as to additional security or otherwise which the Bank may attach thereto, exercise on behalf of the Company any right of set-off or deduction which the Company may have in respect of any reinsurance recoveries which the Managing Agent has been directed to procure be paid into an account pursuant to Clause 10.1 of the Deed.



**CERTIFICATE OF THE REGISTRATION  
OF A MORTGAGE OR CHARGE**

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

COMPANY NO. 6081055  
CHARGE NO. 32

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEED OF CHARGE DATED 1  
JANUARY 2009 AND CREATED BY ARK CORPORATE MEMBER  
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME  
DUE FROM THE COMPANY AND THE MANAGING AGENT TO  
LLOYDS TSB BANK PLC 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 7 JANUARY  
2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 8 JANUARY 2009

