

MG01

Particulars of a mortgage or charge



228237/13  
**IRIS**  
LASERFORM

**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



**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 NOT for**

You cannot use this form to re-  
gister particulars of a charge for a S  
company. To do this, please use  
form MG01s

MONDAY



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10/01/2011

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COMPANIES HOUSE

**1**

**Company details**

Company number 0 6 0 8 7 9 8 6

Company name in full Powerfuel Mining Limited

3

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 d2 d3 m1 m2 y2 y0 y1 y0

**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

A debenture dated 23 December 2010 (the **"Intercompany Loan Debenture"** or  
the **"Agreement"**) between Powerfuel Mining Limited (the **"Chargor"**) and  
Powerfuel Plc (in administration) (the **"Chargee"**)

**4**

**Amount secured**

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

Amount secured

Secured Obligations

Unless defined herein, the capitalised terms in  
this Form MG01 shall have the meaning given to them  
in **Schedule 2 - Definitions** attached hereto

**Continuation page**

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

# MG01

## Particulars of a mortgage or charge

### 5 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

#### Continuation page

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

Name Powerfuel Plc (in administration)

Address c/o KPMG, 1 The Embankment, Neville Street, Leeds

West Yorkshire, United Kingdom

Postcode L S 1 4 D W

Name

Address

Postcode

### 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

Please see **Schedule 1** attached hereto

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## Particulars of a mortgage or charge

<b>7</b>	<b>Particulars as to commission, allowance or discount (if any)</b>  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 <ul style="list-style-type: none"><li>- subscribing or agreeing to subscribe, whether absolutely or conditionally, or</li><li>- procuring or agreeing to procure subscriptions, whether absolute or conditional,</li></ul> for any debentures included in this return The rate of interest payable under the terms of the debentures should not be entered  Commission allowance or discount Nil	
<b>8</b>	<b>Delivery of instrument</b>  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)  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)	
<b>9</b>	<b>Signature</b>  Please sign the form here  Signature <div></div>  This form must be signed by a person with an interest in the registration of the charge	

# MG01

## Particulars of a mortgage or charge



### 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 Ben Prior

Company name White & Case LLP

Address 5 Old Broad Street

Post town London

County/Region

Postcode E C 2 N 1 D W

Country UK

DX

Telephone 0207 532 1340



### 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, Second Floor, The Linenhall, 32-38 Linenhall Street, Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto: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](http://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

Continuation page 1 of 7 - Powerfuel Mining Limited - Company No. 06087986

#### Schedule 1

#### 1 Security

- 1 1 The charges contained in Clause 3 (*Security*) of the Agreement
  - (a) are given to the Chargee,
  - (b) secure the payment and discharge of the Secured Obligations, and
  - (c) are given with full title guarantee.
- 1 2 The Chargor charges, by way of a second ranking mortgage ranking behind only the security provided under the Existing Debentures
  - (a) all the Land described in Schedule 1 (*Land*) to the Agreement and as further set out in Schedule 3 below, and
  - (b) all other Land now owned by it, and any Rights accruing to, derived from or otherwise connected with it (including insurances, insurance proceeds and the proceeds of disposal of any Land)
- 1 3 The Chargor charges, by way of a second ranking fixed charge ranking behind only the security provided under the Existing Debentures, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in
  - (a) Land, other than that charged under Clause 3.2 of the Agreement,
  - (b) Equipment,
  - (c) Accounts,
  - (d) Intellectual Property,
  - (e) Debts, and
  - (f) goodwill and uncalled capital, and any Rights accruing to, derived from or otherwise connected with them (including insurances, insurance proceeds and the proceeds of Disposal of any Land)
- 1 4 The Chargor charges with full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations, by way of second ranking floating charge (ranking behind only the security provided under the Existing Debentures), its undertaking and all its present and future assets other than the Cash Deposit and those effectively charged under Clauses 3 2 or 3 3 of the Agreement

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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>Continuation page 2 of 7 - Powerfuel Mining Limited - Company No. 06087986</p> <p><b>2. Crystallisation</b></p> <p>The Chargee may convert all or part of the floating charge created by the Chargor under Clause 3 4 of the Agreement into a fixed charge by giving notice to that effect to the Chargor and specifying the identity of the assets concerned. This may be done on one or more occasion, but only (a) during an Enforcement Time or (b) if the Chargee reasonably considers that its security over the assets concerned is in jeopardy and that it is necessary to do so to protect or preserve its security</p> <p>Notwithstanding Clause 3 5 of the Agreement, if any person levies or attempts to levy any distress execution or sequestration or other process against any of the Floating Charge Assets, the floating charge shall automatically and without need for notice operate as a fixed charge as regards such assets the moment any such event occurs.</p> <p><b>3. Restrictions (Negative Pledge)</b></p> <p>The Chargor will ensure that the restrictions contained in Clause 5 (Restrictions) of the Agreement are complied with unless the Chargee agrees to the contrary</p> <p>The Chargor shall not create or permit to subsist any Encumbrance over any of its assets other than the Permitted Encumbrances.</p> <p>The Charger shall not</p> <ul style="list-style-type: none"> <li>(a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor,</li> <li>(b) sell, transfer or otherwise dispose of any of its receivables on recourse terms, or</li> <li>(c) enter into any other preferential arrangement having a similar effect,</li> </ul> <p>in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset</p>	

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## Particulars of a mortgage or charge

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Short particulars	<p>Continuation page 3 of 7 - Powerfuel Mining Limited - Company No. 06087986</p> <p><b>4 Perfection (Further Assurances)</b></p> <p>The Chargor will, at its own expense, create all such Encumbrances, execute all such documents, give all such notices, effect all such registrations (whether at the Companies House, an asset registry or otherwise), deposit all such documents (to the extent not already deposited with the Chargee) and do all such other things as the Chargee may require from time to time in order to:</p> <ul style="list-style-type: none"> <li>(a) ensure that it has an effective second-ranking fixed charge (or, in the case of Land then owned by the Chargor, a second-ranking charge by way of mortgage) over the Fixed Charge Assets, subject only to such Permitted Encumbrances as the Chargee has agreed should rank in priority,</li> <li>(b) ensure that it has an effective second-ranking floating charge over the Floating Charge Assets, subject only to such Permitted Encumbrances as the Chargee has agreed should rank in priority; and</li> <li>(c) facilitate the realisation of the Charged Assets or the exercise of any Rights held by the Chargee or any Receiver or Administrator under or in connection with the Agreement.</li> </ul>	

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Short particulars

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#### Schedule 2 - Definitions

"Account" means any account now or in the future opened or maintained by the Chargor with a bank or other financial institution (and any replacement account or subdivision or subaccount of that account), all amounts from time to time standing to the credit of, or accrued or accruing on, such account and all related Rights

"Administrative Receiver" means one or more administrative receivers appointed, or to be appointed, under the Agreement

"Administrator" means one or more administrators appointed, or to be appointed, under the Agreement

"Cash Deposit" means the cash deposit deposited by the Chargor with the Coal Authority pursuant to (a) the Coal Authority Security Deed dated 11 April 2006 between the Coal Authority and the Chargor and (b) Clause 5 (Security) of the underground operating licence for the mine dated 11 April 2006 between the Coal Authority and Powerfuel plc

"Debt" means a monetary claim of any kind (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including Encumbrances) connected with it.

"Disposal" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of any Encumbrance.

"Encumbrance" 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

"Enforcement Time" means any time at which:

- (a) any amount owing by the Chargor under the Loan Agreement is payable but has not been paid, or
- (b) any step is being taken by any person to put the Chargor into administration

"Equipment" means all other plant, machinery, vehicles and other equipment used in connection with the development and operation of the mine, except equipment of a type which is disposed of in the ordinary course of trading, and all warranties and other Rights relating to them.



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## Particulars of a mortgage or charge

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Short particulars	<p>Continuation page 5 of 7 - Powerfuel Mining Limited - Company No. 06087986</p> <p><b>"Existing Debentures"</b> means:</p> <ul style="list-style-type: none"> <li>(a) the debenture dated 12 June 2007 between the Chargor and the Security Trustee, and</li> <li>(b) the second debenture dated 23 July 2008 between the Chargor and the Security Trustee</li> </ul> <p><b>"Fixed Charge Assets"</b> means those assets which are from time to time the subject of Clauses 3 2, 3.3 and 3 5 of the Agreement</p> <p><b>"Floating Charge Assets"</b> means those assets which are from time to time the subject of Clause 3 4 of the Agreement</p> <p><b>"Intellectual Property"</b> means all copyright (including rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading</p> <p><b>"Land"</b> means</p> <ul style="list-style-type: none"> <li>(a) freehold, leasehold or commonhold land,</li> <li>(b) any estate or interest in, and any Rights attaching or relating to, that land, and</li> <li>(c) any buildings, fixtures and fittings (including trade fixtures and fittings) and other equipment attached to, situated on or forming part of that land</li> </ul> <p><b>"Loan Agreement"</b> means the inter company loan agreement dated on or about the date of the Agreement between the Chargor and the Chargee and as it may from time to time be further amended, restated, novated or replaced (however fundamentally, including by an increase of any size in the amount of the facility made available under it, the alteration of the nature, purpose or period of those facilities or the change of its parties)</p> <p><b>"Obligations"</b>, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are</p> <ul style="list-style-type: none"> <li>(a) to pay money or to perform (or not to perform) any other act;</li> <li>(b) express or implied;</li> <li>(c) present, future or contingent,</li> <li>(d) joint or several,</li> <li>(e) incurred as a principal or surety or in any other manner; or</li> <li>(f) originally owing to the person claiming performance or acquired by that person from someone else.</li> </ul>	

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Short particulars

Continuation page 6 of 7 - Powerfuel Mining Limited - Company No 06087986

"**Permitted Encumbrance**" means the Encumbrances created pursuant to the Existing Debentures, together with any other Encumbrances expressly permitted in writing by the Chargee from time to time

"**Receiver**" means an Administrative Receiver or a Specific Receiver

"**Right**" means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary

"**Secured Obligations**" means those Obligations from time to time incurred by the Chargor under or in connection with the Loan Agreement when they become due for payment or discharge

"**Specific Receiver**" means one or more receivers or managers appointed, or to be appointed, under the Agreement who is not an Administrative Receiver

"**Security Trustee**" means VTB Capital plc (formerly VTB Europe plc) as security trustee under the Existing Debentures

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## Particulars of a mortgage or charge

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#### Schedule 3 - Land

##### Part 1

##### Registered Land

The Mining Land as edged red on the Plan being land registered at the Land Registry under number of SYK538125.

##### Part 2

##### Leasehold

The leasehold property known as the Hatfield Colliery and comprised in the following title deed(s) or other document(s) of title

Date	Document/Parties	Address/Description
11 April 2006	The Coal Authority (1)	Such parts of the High Hazel and Barnsley seams as lie beneath the surface area of 4586 hectares or thereabouts shown edged red on the plan annexed to the Lease in the Metropolitan Borough of Doncaster and known as the Hatfield Colliery
	Powerfuel plc (2)	



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

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

**COMPANY NO. 6087986  
CHARGE NO. 3**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEBENTURE DATED 23  
DECEMBER 2010 AND CREATED BY POWERFUEL MINING  
LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME  
DUE FROM THE COMPANY TO POWERFUL PLC (IN  
ADMINISTRATION) C/O KPMG 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 10 JANUARY  
2011

GIVEN AT COMPANIES HOUSE, CARDIFF THE 11 JANUARY  
2011

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*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES