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*insert full name
of company

COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

Pursuant to section 395 of the Companies Act 1985

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E100x10
045769
GIVE 20

To the Registrar of Companies

For official use

Company number

[1] [1] [2]

00009850

Name of company

* T & S Properties Limited (the "Company")

Date of creation of the charge

20 May 1999

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

First Guarantee and Debenture (the "Guarantee and Debenture") between
the Company and Barclays Bank PLC

Amount secured by the mortgage or charge

PLEASE SEE ATTACHED

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

Barclays Bank PLC, 5 The North Colonnade, Canary Wharf, London, E14 4BB
(the "Security Trustee") as security trustee for the Beneficiaries (as
defined below)

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

Linklaters & Paines
One Silk Street
London EC2Y 8HQ

Ref: GLW/CEPM

Time critical reference

For official use
Mortgage Section

Post room



KLO *KLB90H0U* 476
COMPANIES HOUSE 08/06/99

Short particulars of all the property mortgaged or charged

PLEASE SEE ATTACHED

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legibly, preferably
in black type, or
bold block
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Particulars as to commission allowance or discount (note 3)

Nil

Signed

Linklaters & Paines

Date

08/06/99

On behalf of [company] [mortgagee/chargee] †

† 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.

Amount Secured by the mortgage or charge

- (i) all money and each and every liability now or in the future due and owing by the Company to the Security Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries under or pursuant to the Finance Documents and/or the Banks' Bilateral Facilities; and
- (ii) all money and each and every liability now or in the future due and owing by any other Group Company to the Security Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries under or pursuant to the Finance Documents and/or the Banks' Bilateral Facilities;

in each case whether on or after such 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 and so that interest shall be computed and compounded in accordance with the Finance Documents and clause 21.3 of the Guarantee and Debenture (after as well as before any demand or judgment) (the "**Secured Sums**").

Short Particulars of all the property mortgaged or charged

The Company with full title guarantee charges to the Security Trustee as security for the payment or discharge of all Secured Sums

- (i) by way of first legal mortgage, all freehold and leasehold Land in England and Wales now vested in such Company and registered at H.M. Land Registry, (including but not limited to the interests of such Company in the Material Properties described in Part 1 of the Third Schedule to the Guarantee and Debenture);
- (ii) by way of first legal mortgage, all other freehold and leasehold Land in England and Wales now vested in such Company and not registered at H.M. Land Registry (including but not limited to the interests of such Company in the Material Properties described in Part 2 of the Third Schedule to the Guarantee and Debenture);
- (iii) by way of first fixed charge, all Land now being or in the future becoming the property of such Company (except Land charged under Clauses 3.1.1 or 3.1.2 of the Guarantee and Debenture);
- (iv) by way of first fixed charge, all interests in Land or the proceeds of sale of Land now or in the future belonging to such Company which have not already been charged under Clauses 3.1.1, 3.1.2 or 3.1.3 of the Guarantee and Debenture and all licences now or in the future held by such Company 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 such Company is or may in the future become entitled;
- (v) by way of first fixed charge, all plant and machinery of such Company now or in the future attached to any Land which, or an interest in which, is charged under Clauses 3.1.1, 3.1.2, 3.1.3 or 3.1.4 of the Guarantee and Debenture and all rights and interests of such Company under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached;

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- (vi) by way of first fixed charge, all rental and other income and all debts and claims now or in the future due or owing to such Company under or in connection with any lease, agreement or licence relating to Land;
- (vii) by way of first fixed charge, all Securities belonging to such Company;
- (viii) by way of first fixed charge, all contracts and policies of insurance and assurance now or in the future held by or otherwise benefiting such Company and all rights and interests of such Company in every such contract and policy (including the benefit of all claims arising and all money payable under such contracts and policies);
- (ix) by way of first fixed charge, all the goodwill and uncalled capital for the time being of such Company;
- (x) by way of first fixed charge, all Intellectual Property Rights of such Company capable of being validly charged by way of fixed charge;
- (xi) by way of first fixed charge, all book and other debts now or in the future owing to such Company and all rights and claims of such Company against third parties, present and future, capable of being satisfied by the payment of money;
- (xii) by way of first 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 such Company as security for any Receivable or for the performance by any third party of any obligation now or in the future owed to such Company;
- (xiii) by way of first fixed charge, all money at any time standing to the credit of any Collection Account relating to such Company, including the proceeds of all Receivables of such Company, 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 of the Guarantee and Debenture but shall be subject to the fixed charge contained in paragraph 3.1.13 of the Guarantee and Debenture;
- (xiv) by way of first fixed charge, all money at any time standing to the credit of the Loan Note Guarantee Security Account
- (xv) by way of first fixed charge, all money at any time standing to the credit of any other bank account of the Company not subject to the fixed charges contained above;
- (xvi) by way of floating charge:
 - (a) all Assets now or in the future owned by such Company including any Assets which are charged by any fixed charge contained in the preceding provisions of clause 3.1 of the Guarantee and Debenture, including any Assets comprised within a charge which is reconverted under clause 3.5 of the Guarantee and Debenture; and
 - (b) without exception all Assets insofar as they are for the time being situated in Scotland;

Note The Guarantee and Debenture provides that:-

1 Priority of Fixed Security

Any mortgage, fixed charge or other fixed security whenever and however created by the Company and subsisting in favour of the Security Trustee shall (save as the Security Trustee

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may otherwise declare at or after the time, of its creation) have priority over the floating charge created by clause 3.1.16 of the Guarantee and Debenture.

2 Crystallisation of Floating Charge

The floating charge created by the Company in clause 3.1.16 of the Guarantee and Debenture may be crystallised into a fixed charge by notice in writing by the Security Trustee to the Company given:

- 2.1.1 at any time after an Event of Default occurs or
- 2.1.2 in any case in respect of any Charged Assets whilst the security over it is in jeopardy or which is in danger of seizure or if it reasonably considers it necessary to do so in order to protect or preserve the Charges over those Charged Assets and/or the priority of those Charges.
- 2.1.3 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.

3 Automatic Crystallisation: If:

- 3.1.1 the Company, without the Security Trustee's prior written consent and save as permitted under the Credit Agreement, 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 Company's business, or
- 3.1.2 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 3.1.16 of the Guarantee and 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.

In this Form 395:

"Assets" means all the present, future or contingent undertaking, property, assets, rights and revenues of a Company, whatever and wherever in the world, present and future, and includes each or any of them;

"Beneficiaries" means collectively the Agent, the Arranger, the Security Trustee, the Banks (including, for the avoidance of doubt, the relevant Banks in their capacity as providers of the Banks' Bilateral Facilities), the Loan Note Guarantor and the Hedging Counterparties and includes any one or more of them and "Beneficiary" shall be construed accordingly.

"Charged Land" means the Land charged pursuant to clause 3 of the Guarantee and Debenture (Charging Clause);

"Charges" means all or any of the Security created or expressed to be created by or pursuant to the Guarantee and Debenture;

"Collection Account" has the meaning attributed to it by clause 5.1 of the Guarantee and Debenture (Treatment of Receivables);

"Credit Agreement" means the Credit Agreement dated 30 April 1999 and made between T & S Stores PLC as Borrower, the Original Obligors, the Banks named in it, Barclays Capital as Arranger and Barclays Bank PLC as Agent and as Loan Note Guarantor;

"Floating Charge Assets" means, insofar only as concerns the floating charge created by clause 3.1.16, of the Guarantee and Debenture Assets from time to time comprised within it;

"Guarantor" means any Company insofar only as it covenants under clause 2.1.2 of the Guarantee and Debenture to pay or discharge money due or owing from or liabilities of any other Group Company to the Beneficiaries and "Guarantee" shall be construed accordingly;

"Intellectual Property Rights" means all patents, utility models, trade marks, service marks (and all goodwill associated with them), rights in passing off, all brands and trade names, all copyrights (including copyright in computer software) and rights in the nature of copyright, semi-conductor topography rights, design rights and registered designs, all documented trade secrets and know-how and all other intellectual property rights now or in the future, registered or unregistered, owned or enjoyed by a Company, including the right to apply for all applications for the protection of the foregoing in any part of the world and the benefit of all agreements, licences and permissions now or in the future entered into or enjoyed by a Company relating to the use or exploitation of any such rights, and includes each or any of them;

"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;

"Material Properties" means the properties which are described in the Third Schedule to the Guarantee and Debenture;

"Receivables" means all sums of money receivable by a Company now or in the future consisting of or payable under or derived from any of its Assets referred to in clause 3.1 to the Guarantee and Debenture;

"Recoveries" means any moneys received by the Security Trustee or by the Receiver under this Debenture and/or under any other Security Documents on or after the Enforcement Date;

"Securities" means all stocks, shares, debentures and loan stock 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 Company, 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 Company in another Group Company;

"Acquisition" means the purchase by the Borrower of the Shares pursuant to the Sale and Purchase Agreement.

"Advance" means an advance made or to be made by the Banks under the Term Facility or, as the case may be, the outstanding principal amount of any such advance.

"Banks" means the Underwriter and any New Bank in respect of which a Novation Notice becomes effective in accordance with Clause 28.3 of the Credit Agreement and their

respective permitted assignees and their respective successors and "Bank" means any of the Banks.

"Banks' Bilateral Facilities" means any of the facilities described in Schedule 9 which may be provided by any one or more of the Banks (at their sole discretion) to any Obligor from time to time.

"Charged Assets" means the assets charged pursuant to the Security Documents.

"Commitment" means, in relation to a Bank and subject as provided in the Credit Agreement, the amount set opposite its name at the end of the Credit Agreement.

"Event of Default" means one of the events mentioned in Clause 21.1 of the Credit Agreement.

"Existing Facilities" means all sums owing pursuant to the £90,000,000 Credit Agreement dated 15 September 1997 between the Borrower and Barclays Bank PLC as amended (including on 15 December 1997 and 12 January 1998).

"Facilities" means the Term Facility and the LNG Facility (and includes any one or both of them as the context may admit or require) and "Facility" means either of them.

" Documents" means:

- (i) the Credit Agreement
- (ii) each of the fee letters referred to in Clause 9 of the Credit Agreement
- (iii) any Finance Hedging Agreement
- (iv) the Syndication Side Letter
- (v) the Security Documents
- (vi) any Obligor Accession Deed

and any other documents designated as such by the Borrower and the Agent in writing.

"Group" means, at any particular time, the Borrower and all its Subsidiaries (but including the Target Group before as well as after the Takeover Date) and **"Group Company"** means any of them.

"Hedging Agreement" means any interest rate and/or currency management agreement entered into by the Borrower with a Hedging Counterparty.

"Hedging Counterparty" means any Bank in its capacity as counterparty to a Hedging Agreement.

"Loan Note Guarantee Advance" means the deemed advance under the LNG Facility as described in Clause 15 of the Credit Agreement.

"Loan Note Guarantee Security Account" means an account of the Borrower with the Loan Note Guarantor designated T&S Stores PLC - Loan Note Guarantee Account or, at the option of the Loan Note Guarantor, at such other financial institution as it may reasonably nominate and which is subject to a charge in favour of the Agent under the Guarantee and Debenture.

"LNG Facility" means the loan note guarantee facility referred to in Clause 2.1, of the Credit Agreement as the same may be reduced or cancelled from time to time in accordance with the provisions of the Credit Agreement.

"Majority Banks" means one or more Banks whose Outstandings at the relevant time together exceed 662/3% or more of the total Outstandings (or, if there are no Outstandings, Banks whose Commitments at the relevant time together exceed 662/3% of the total Commitments).

"Novation Notice" means a notice substantially in the form set out in Schedule 4 of the Credit Agreement.

"Obligors" means:

- (i) the Borrower
- (ii) each Original Obligor and
- (iii) each Group Company that, following the date of this Agreement, accedes to this Agreement, executes the relevant Security Document(s) and in relation to which notice from the Agent under Clause 30.4 has been given.

and **"Obligor"** means any one of them.

"Obligor Accession Deed" means a deed to be delivered by any Obligor to the Agent substantially in the form set out in Schedule 11 of the Credit Agreement or in such other form as the Majority Banks may reasonably require.

"Outstandings" means, in relation to a Bank at any particular time the aggregate of:

- (iv) the aggregate principal amount of its share of all (if any) Advances outstanding at that time and
- (v) its Relevant Percentage of the amount of the Loan Note Guarantee Advance at that time.

"Relevant Percentage" means, at any time, in relation to a Bank and a Facility, the proportion, expressed as a percentage, which that Bank's Commitment forms of the aggregate of all the Commitments at that time.

"Syndication Side Letter" means the letter dated on or about the date of the Credit Agreement between the Arranger and the Borrower setting out the agreement between the parties thereto with respect to the syndication of the facility provided to the Borrower pursuant to the Credit Agreement.

"Term Facility" means the term loan facility referred to in Clause 2.1 of the Credit Agreement, as the same may be reduced or cancelled from time in accordance with the provisions of the Credit Agreement.

an **"Agency"** of a state includes any agency, authority, central bank, department, government, legislature, minister, ministry, official, or public or statutory Person (whether autonomous or not) of, or of the government of, that state or any political sub-division in or of that state.

a **"Person"** includes any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or Agency of a state (in each case, whether or not having separate legal personality).

Company Name: **T & S Properties Limited**

Company No. 00009850

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"**Security**" includes any mortgage, pledge, lien, hypothecation, charge, assignment, set-off or netting arrangements or deposit by way of security or any other agreement or arrangement (whether conditional or not and whether relating to existing or to future assets), having the effect of providing Security to a creditor (and "secured" shall be construed accordingly).

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CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 00009850

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A FIRST GUARANTEE AND DEBENTURE DATED THE 20th MAY 1999 AND CREATED BY T & S PROPERTIES LIMITED FOR SECURING ALL MONIES AND EACH AND EVERY LIABILITY NOW OR IN THE FUTURE DUE AND OWING BY EACH COMPANY (AS DEFINED THEREIN) TO BARCLAYS BANK PLC AS SECURITY TRUSTEE FOR THE BENEFICIARIES (AS DEFINED) UNDER OR PURSUANT TO THE FINANCE DOCUMENTS AND/OR THE BANKS BILATERAL FACILITIES WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 8th JUNE 1999.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 14th JUNE 1999.

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L.C.



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



C O M P A N I E S H O U S E

HC026B