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bold block lettering

*insert full name
of Company

COMPANIES FORM No. 395

216892/884

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.

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

[] [] [] [] [] []

01044614

Name of company

* Ben Bailey Developments Limited (the **Chargor**)

Date of creation of the charge

30 December 2008

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

Debenture dated 30 December 2008 between the Chargor and BoS (the **Deed**)

Amount secured by the mortgage or charge

All or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to BoS by the Chargor, whether actually or contingently, solely or jointly and whether as principal or surety (or guarantor or cautioner), including any money and liabilities of the Chargor to a third party which have been assigned or novated to or otherwise vested in BoS and including interest, discount, commission and other lawful charges or expenses which BoS may in the course of its business charge or incur in respect of any of those matters or for keeping the Chargor's account, and so that interest shall be computed and compounded according to the usual BoS rates and practice (or otherwise agreed in writing) after as well as before any demand made or judgment or decree obtained under or in relation to the Deed (the **Secured Liabilities**)

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

Bank of Scotland PLC, The Mound, Edinburgh

Postcode EH1 1YZ

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

Allen & Overy LLP
One Bishops Square
London
E1 6AD

JYZ/43278-00294/BK:10495311

Time critical reference

For official Use (06/2005)
Mortgage Section



PMO 9/1/09 366
COMPANIES HOUSE

LD3 06/01/2009 114
COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

See continuation sheets 1 to 5.

Please do not
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*Please complete
legibly, preferably
in black type, or
bold block
lettering*

Particulars as to commission allowance or discount (note 3)

Nil

Signed Allen & Overy LLP

Date 06/01/09

On behalf of ~~XXXXXX~~ [mortgagee/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

Continuation Sheet

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

1. CREATION OF SECURITY

1.1 General

- (a) The Chargor with full title guarantee hereby charges to BoS as a continuing security for the payment or discharge of the Secured Liabilities:-
- (i) by way of legal mortgage all estates or interests in the freehold and leasehold property now owned by it and described in the schedule to the Deed together with all present and future buildings, and fixtures (including trade and tenant's fixtures), which are at any time on or attached to the property;
 - (ii) by way of fixed charge:-
 - (A) all estates or interests in any freehold or leasehold property owned by it now or at any time after the date of the Deed (other than any property charged in terms of paragraph 1.1(a)(i) above) together with all buildings, and fixtures (including trade and tenant's fixtures) which are at any time on or attached to the property;
 - (B) all present and future interests owned by it in or over land or the proceeds of sale of it and all present and future licences of it to enter upon or use land;
 - (C) the benefit of all other agreements relating to land which it is or may become party to or otherwise entitled;
 - (D) all plant and machinery owned by it now or in the future attached to property which is charged by the foregoing provisions of this paragraph 1.1(a);
 - (E) all present and future stocks, shares and other securities owned (at law or in equity) by it and all rights, money or property of a capital nature at any time accruing or offered in relation to them, whether by way of bonus, consolidation, conversion, exchange, option, preference, return of capital or otherwise;
 - (F) all rights, money or property of an income nature at any time accruing or payable in relation to the stocks, shares and other securities charged by paragraph 1.1(a)(ii)(E) above, whether by way of dividend, distribution, interest or otherwise;
 - (G) all rights and interests in and claims under all insurance contracts or policies now or in the future held by or insuring to the benefit of it which relate to Fixed Charge Assets (including all money payable under such contracts and policies);
 - (H) all rights and interest and claims under all other insurance or assurance contracts or policies now or in the future held by or insuring to the benefit of it (including all money payable under them);

- (I) all patents, utility models, registered and unregistered trade and service marks, rights in passing off, copyright, registered and unregistered rights in designs and database rights in each case now or in the future held by it (whether alone or jointly with others) anywhere in the world and including any extensions and renewals of, and any application for such rights;
 - (J) the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation by or on behalf of it in any part of the world of any such rights as are referred to in paragraph 1.1(a)(ii)(I) above but owned by others;
 - (K) its rights now or in the future in relation to trade secrets, confidential information and know how in any part of the world;
 - (L) all present and future book debts held by it;
 - (M) all other present and future debts or monetary claims of it against third parties (excluding those charged under paragraphs 1.1(a)(ii)(G) or 1.1(a)(ii)(H) above or arising on fluctuating accounts with other Group Companies);
 - (N) the benefit of all warranties, instruments, guarantees, charges, pledges, and other security and all other rights and remedies available to it in respect of any Fixed Charge Assets;
 - (O) all present and future bank accounts, cash at bank and credit balances of it (excluding those arising on fluctuating accounts) with any bank or other person whatsoever and all rights relating or attaching to them (including the right to interest);
 - (P) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Charge Asset except to the extent that such rights, money or property are for the time being effectively charged by fixed charge under the foregoing provisions of this paragraph 1.1(a); and
 - (Q) its goodwill and uncalled capital for the time being;
- (iii) by way of floating charge all the Assets not effectively otherwise mortgaged, charged or assigned by this paragraph 1, (including, without limitation, any immovable property owned by it in Scotland and any Assets in Scotland falling within any of the types mentioned in paragraph 1.1(a)(ii) above).
- (b) The Chargor with full title guarantee hereby assigns as a continuing security for the payment or discharge of the Secured Liabilities in favour of BoS (subject to the right of the Chargor to require the re-assignment of it upon payment or discharge in full of the Secured Liabilities):
- (i) all the right, title and interest of it in and to any interest rate hedging agreements now or in the future entered into with any person; and
 - (ii) (insofar as they are capable of being assigned by way of security) all the right, title and interest of it in and to any agreement to which it is a party except to the extent that it is subject to any fixed charge created under any other provisions of the Deed;

- (c) To the extent that any such right, title and interest as is referred to in paragraph 1.1(b) above is not assignable or capable of assignment, the assignment of it purported to be effected by such clause shall operate as an assignment of any and all compensation, damages, income, profit or rent which the Chargor may derive from it or be awarded or entitled to in respect of it, in each case as a continuing security for the payment or discharge in full of the Secured Liabilities.
- (d) Any mortgage, fixed charge or other fixed security created by the Chargor in favour of BoS shall have priority over the floating charge created by the Deed, except insofar as BoS shall declare otherwise whether at or after the time of creation of such fixed security.
- (e) BoS may at any time, by notice to the Chargor, immediately convert the floating charge created under paragraph 1.1(a)(iii) above into a fixed charge over any Assets specified in that notice and the floating charge will, without notice from BoS, automatically be converted with immediate effect into a fixed charge:-
 - (i) in respect of any Assets which become subject to any step by any third party to take a fixed charge;
 - (ii) in respect of any Assets which become subject to any step by any third party to levy any distress, attachment, execution or other legal process against them;
 - (iii) in respect of all Assets charged under paragraph 1.1(a)(iii) above if and when the Chargor ceases to carry on business or to be a going concern; and
 - (iv) in respect of all the Assets on the making of an order for the compulsory winding-up of the Chargor, on the convening of a meeting for the passing of a resolution for the voluntary winding-up of the Chargor or the taking of any steps (including, without limitation, the making of an application or the giving of any notice) by the Chargor or any other person for the appointment of an administrator in respect of the Chargor.
- (f) Paragraph 1.1(e) above will not apply:-
 - (i) to any Assets situated in Scotland if, and to the extent that, a Receiver would not be capable of exercising his powers in Scotland pursuant to section 72 of the Insolvency Act 1986 by reason of such automatic conversion; and/or
 - (ii) solely by reason of the Chargor obtaining a moratorium or anything done with a view to obtaining a moratorium under the schedule A1 of the Insolvency Act 2000.

1.2 Restrictions on dealings

The Chargor will not, without the prior written consent of BoS:-

- (a) create or attempt to create or permit to subsist any right in security, mortgage, charge, lien (other than a lien arising in the ordinary course of business by operation of law) or any encumbrance, trust agreement, declaration of trust or trust arising by operation of law over all or any Assets (except in favour of BoS); or
- (b) sell, transfer, assign, factor, lease or otherwise dispose of or part with possession in any way of all or any of its Assets (other than in terms of a Permitted Disposal); or

- (c) in any way dispose of the equity of redemption of any such Asset or any interest in any such Asset.

2. CONTINUING SECURITY

This security will be a continuing security for the Secured Liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities or other matter or thing whatsoever and will be without prejudice and in addition to any other right, remedy or security of whatever sort which BoS may hold at any time for the Secured Liabilities or any other obligation whatsoever and will not be affected by any release, reassignment or discharge of such other right remedy or security.

3. FURTHER ASSURANCES

The Chargor (at its own cost) will on demand in writing by BoS execute and deliver in such form as BoS may reasonably require:-

- (a) a legal mortgage of any freehold or leasehold property owned by it which is not effectively charged by paragraph 1.1(a)(i) above and of any freehold or leasehold property acquired by it after the date of the Deed;
- (b) a standard security or other fixed security over its heritable freehold, leasehold or other property;
- (c) a fixed charge or assignment in or by way of security of any Asset subject to a floating charge under paragraph 1.1(a)(iii) above;
- (d) a chattel mortgage over such chattels, plant and machinery as BoS may specify; and
- (e) a notice of any assignment of its right, title and interest in and to any of the agreements referred to in paragraph 1.1(b) above

and the Chargor will execute such other deeds, documents, agreements and instruments and will otherwise do and concur in all such other acts or things as BoS may deem necessary for perfecting, preserving or protecting the security created (or intended to be created) by the Deed or for facilitating the realisation of the Assets or the exercise of any rights of BoS under the Deed.

In this Form 395:

Assets means the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Chargor.

BoS means Bank of Scotland plc (Company Number SC327000) having its registered office at The Mound, Edinburgh EH1 1YZ and its successors, assignees and transferees.

Fixed Charge Asset means an Asset for the time being comprised within a mortgage, fixed charge or assignment by way of security created by paragraph 1.1(a), 1.1(b), 1.1(c) or (with effect from the date of its creation) any security created pursuant to paragraph 3 above.

Group means each Chargor as defined in the Deed and listed in schedule 1 to the Deed and each of their Subsidiaries and **Group Company** shall be construed accordingly.

Permitted Disposal means:

- (a) the disposal of stock subject only to the floating charge created by paragraph 1.1(a)(iii) above on an arm's length basis in the ordinary course of trading;
- (b) disposals of obsolete or redundant assets (other than Fixed Charge Assets, other Assets subject to a fixed charge or security in favour of BoS and any other heritable or leased property in Scotland) which are no longer required for the business of any Group Company;
- (c) disposals of assets (other than Fixed Charge Assets, other Assets subject to a fixed charge or security in favour of BoS and other heritable or leased property in Scotland) in exchange for replacement assets comparable or superior as to type, value and quality;

Receiver means an administrative receiver, receiver and manager or other receiver appointed pursuant to the Deed in respect of the Chargor or over all or any of the Assets charged by or pursuant to the Deed.

Subsidiary means, in respect of any company, person or entity, any company, person or entity directly or indirectly controlled by such company, person or entity (including any Subsidiary acquired after the date of the Deed) and **Subsidiaries** shall mean all or any of them, as appropriate. **Control** of any company for the purposes of this definition shall be interpreted in accordance with section 995 of the Income Tax Act 2007.



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

**COMPANY NO. 1044614
CHARGE NO. 1**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEBENTURE DATED 30
DECEMBER 2008 AND CREATED BY BEN BAILEY
DEVELOPMENTS LIMITED FOR SECURING ALL MONIES DUE
OR TO BECOME DUE FROM THE COMPANY TO BANK OF
SCOTLAND PLC ON ANY ACCOUNT WHATSOEVER 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 9 JANUARY 2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 13 JANUARY
2009

P. S. el.



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES