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COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

Pursuant to section 395 of the Companies Act 1985

Please do not  
write in  
this margin

CHA 116

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

\*insert full name  
of company

To the Registrar of Companies

For official use

Company number

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

3162838

Name of company

\* Lister-Petter Group Limited (the "Chargor")

Date of creation of the charge

24th August 1998

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

Supplemental Guarantee and Debenture between the Chargor and others and the Governor and Company of the Bank of Scotland (the "Security Trustee") (the "Supplemental Guarantee and 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  
5th Floor, Broad Street House  
55 Old Broad Street  
London EC2P 2HL

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

Lovell White Durrant  
65 Holborn Viaduct  
London  
EC1A 2DY

A7/JIB/BR/17621

Time critical reference

For official use  
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

See Parts III and V of the attached Schedule

NB Part IV of the attached Schedule includes covenants by and restrictions on the Chargor which protect and further define the chargess and which must be read as part of the charges created.

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this margin

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

Particulars as to commission allowance or discount (note 3)

Signed Lowell White Duran Date 3. 12. 98

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 situated 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.

## SCHEDULE TO FORM 395

### Part I

#### Definitions

Words or expressions defined in the Facilities Agreement (as defined below) shall, unless otherwise defined herein, bear the same meaning in this Schedule and, in addition, in this Schedule, so far as the context admits, the following expressions have the following meanings:-

"Beneficiaries"	means together the Agent, the Security Trustee, the Banks, the Working Capital Bank, the Hedging Counterparties, the Subordinated Agent and the Subordinated Loan Note Holders and includes any one or more of them and " <u>Beneficiary</u> " shall be construed accordingly;
"Companies"	means together the New Company and the Existing Companies and " <u>Company</u> " shall be construed accordingly;
"Enforcement Date"	means the date upon which the Security Trustee shall first enforce any part of the security hereby created;
"Event of Default"	means any event specified as an Event of Default in the Facilities Agreement and, after the Senior Discharge Date, means any event specified as a default in Condition 8 of the Subordinated Loan Note Instrument;
"Existing Companies"	means the Companies listed in Part VI of this Schedule;
"New Company"	means Filbuk 498 Limited, Company No 3526929;
"Facilities Agreement"	means the facilities agreement of dated 29th June 1996 and made between, amongst others, the Principal Borrower and the Security Trustee which expression shall include any amendments, supplements, accessions, variations or additions to such agreement, (including without limitation changes to the facilities provided thereunder or increases in their maximum amount);
"Guarantors"	means the Companies or any of them in their capacity as guarantors hereunder, and " <u>Guarantor</u> " shall mean any of the Guarantors as the context may admit or require;
"Hedging Agreements"	means the interest rate and/or currency management agreements referred to in clause 15.27 of the Facilities Agreement and any other agreements entered into between a Hedging Counterparty and any Group Company at any time for the purpose of managing or hedging the interest rate and/or currency risk under the Facilities Agreement whether by way of cap, collar, swap or otherwise and " <u>Hedging Agreement</u> " shall be construed accordingly;

"Potential Event of Default"	prior to the Senior Discharge Date, means any event specified as a Potential Event of Default in the Facilities Agreement;
"Principal Borrower"	means Lister-Petter Group Limited (company number 3162838);
"Security Trustee"	means the Governor and Company of the Bank of Scotland acting as security trustee for the Beneficiaries which expression shall include any successor substituted in accordance with the Facilities Agreement or the Intercreditor Deed (as the case may be). Any third party may rely on a deed of transfer of mortgage executed by the Security Trustee and by its successor as conclusive evidence of any change of Security Trustee;
"Senior Debt"	<p>means all present and future sums, liabilities or obligations from time to time due, owing or incurred (actually or contingently) by the Principal Borrower or any other Group Company to the Senior Lenders or any of them under or in connection with the Senior Finance Documents, together with:</p> <ul style="list-style-type: none"> <li>(a) any refinancing, novation, refunding, deferral or extension of such indebtedness;</li> <li>(b) any additional advances which may be made by the Banks (or any of them) or the Working Capital Bank to the Principal Borrower or any other Group Company under any agreement expressed to be supplemental to or in restatement of any of the Senior Finance Documents, plus all interest, fees and costs in connection with such agreement or such advances;</li> <li>(c) any claim against the Principal Borrower or any other Group Company arising from any recovery by the Principal Borrower or any other Group Company of a payment or discharge in respect of such indebtedness, or arising from cancellation or rescission of any such indebtedness; and</li> <li>(d) any amounts which would be included in such indebtedness or in (a), (b) or (c) above but for any discharge, non-provability, unenforceability or non-allowability in any insolvency or other proceedings, including but not limited to post-insolvency interest;</li> </ul>
"Senior Discharge Date"	means the first date, as determined by the Agent, on which the Senior Debt shall have been irrevocably discharged in full;
"Subordinated Agent"	means Hawker Siddeley Group Limited;
"Subordinated Debt"	means all present and future sums, liabilities or obligations from time to time due, owing or incurred (actually or

contingently) by the Principal Borrower or any other Group Company to the Subordinated Agent and/or the Subordinated Loan Note Holders under or in connection with the Subordinated Loan Note Instrument and the Subordinated Security, together with:

- (a) any refinancings, novation, refunding, deferral or extension of such indebtedness;
- (b) any claim against the Principal Borrower or any other Group Company arising from any recovery by the Principal Borrower or any other Group Company of a payment or discharge in respect of such indebtedness, or arising from cancellation or rescission of any such indebtedness; and
- (c) any amounts which would be included in such indebtedness or in (a) or (b) above but for any discharge, non-provability, unenforceability or non-allowability in any insolvency or other proceedings, including but not limited to post-insolvency interest;

"Subordinated Loan  
Note Instrument"

means the loan note instrument of even date herewith whereby the Principal Borrower issued a series of 6 per cent. subordinated secured loan notes due 30 June 2004 not exceeding £20,000,000 in aggregate principal amount (and, in addition, any further loan notes having the same terms as such loan notes issued in partial satisfaction of the interest obligations of such loan notes) and references to the Subordinated Loan Note Instrument shall include:

- (i) a reference to the loan notes issued thereunder; and
- (ii) a reference to such document as assigned, transferred, varied, modified, altered, increased in amount, extended and/or replaced in any manner from time to time;

## **Part II**

### **Amount secured by Mortgage or Charge**

1. By clause 2.2 of the Supplemental Guarantee and Debenture the Chargor guaranteed and covenanted that:
  - (a) it will on demand in writing made to it by the Agent pay to the Security Trustee for the account of the Banks, the Working Capital Bank, the Hedging Counterparties, the Agent and the Security Trustee all of the Senior Debt save for any amounts in respect of the Acquisition Loan whether due owing or incurred by it or by the New Company; and
  - (b) it will on demand in writing made to it by the Agent pay to the Security Trustee all monies and discharge all obligations which shall for the time being (and whether on

or at any time after such demand) be due, owing or incurred by it or by the New Company:-

- (i) to the Working Capital Bank; and/or
  - (ii) (after compliance in full or in part by the Banks with their obligations under clauses 2.7(b)(iv)(8) and 2.7(e)(iii) of the Facilities Agreement) to the Banks under the Working Capital Facility; and
- (c) it will on demand made to it by the Agent pay to the Security Trustee all monies and discharge all obligations which shall for the time being (and whether on or at any time after such demand) be due, owing or incurred to the Governor and Company of the Bank of Scotland (to the extent not payable under clause 1(b) above);
- (d) it will on demand in writing made to it by the Subordinated Agent (provided that such demand may be made only on or after the earliest date permitted in accordance with the terms of the Intercreditor Deed) pay to the Subordinated Loan Note Holders the Subordinated Debt;
- (i) in each case, under (a) and/or (b) and/or (c) and/or (d) whether actually or contingently and whether solely or jointly with any other person and whether as principal or surety (under any document whether executed before, at the same time as, or at any time after execution of the Supplemental Guarantee and Debenture); and
  - (ii) in each case, under (a) and/or (b) and/or (c) whether or not such indebtedness, obligations or liabilities shall have been incurred directly to the Beneficiaries concerned or such Beneficiary is entitled to lodge a claim in respect thereof only by reason of the sale or assignment of such indebtedness or liability to it by the party originally entitled; and

on the basis that interest (in the absence of express agreement to the contrary) shall be computed and compounded according to the provisions of the Facilities Agreement or the usual provisions of the Working Capital Bank (as the case may be) or, after the Senior Discharge Date, according to the provisions of the Subordinated Loan Note Instrument, in each case as well after as before any demand made or judgment obtained hereunder.

The Agent or the Subordinated Agent (as the case may be) shall only be entitled to make demand under ~~this~~ clause, after demand has been made under clause 18 of the Facilities Agreement or after the Senior Discharge Date, after demand has been made under condition 8 in Schedule 1 to the Subordinated Loan Note Instrument.

2.2

### **Part III**

#### **Particulars of Property Mortgaged or Charged**

2. By clause 4.1 of the Supplemental Guarantee and Debenture the Chargor with full title guarantee charged to the Security Trustee with the payment or discharge of all Secured Sums:

(a) Registered land:

By way of first legal mortgage, all its freehold and leasehold property the title to which is registered at HM Land Registry for England and Wales (including but not limited to the interest of the Chargor in the properties described in Part V of this Schedule) together with all buildings, fixtures (excluding in the case of leasehold property, landlord's fixtures, and in the case of freehold property and leasehold property which is let or sub-let to a third party, excluding tenants' and trade fixtures of such third party) and fixed plant and machinery at any time thereon;

(b) Unregistered Land:

By way of first legal mortgage, all other freehold and leasehold property now vested in it and not registered at HM Land Registry for England and Wales together with all buildings, fixtures (excluding in the case of leasehold property, landlord's fixtures, and in the case of freehold property and leasehold property which is let or sub-let to a third party, excluding tenants' and trade fixtures of such third party) and fixed plant and machinery at any time thereon;

(c) Future Property:

By way of first fixed charge, all future freehold and leasehold property of the Chargor together with all buildings, fixtures (excluding in the case of leasehold property, landlord's fixtures, and in the case of freehold property and leasehold property which is let or sub-let to a third party, excluding tenants' and trade fixtures of such third party) and fixed plant and machinery at any time thereon;

(d) Other Property:

By way of first fixed charge, all estates and interests not hereinbefore effectively charged now or hereafter belonging to the Chargor in or over land wheresoever situate or the proceeds of sale of land and all licences now or hereafter held by the Chargor to enter upon or use land and the benefit of all other agreements relating to land to which the Chargor is or may become a party or otherwise entitled, and all trade and tenants' fixtures, plant and machinery owned by the Chargor now or hereafter annexed to all freehold and leasehold property its estate or interest in which stands charged hereunder but excluding in the case of leasehold property, landlord's fixtures but including trade fixtures and fittings, and in the case of freehold property and leasehold property which is let or sub-let to a third party, excluding tenants' and trade fixtures of such third party);

(e) Book Debts:

By way of first fixed charge, all book debts both present and future due or owing to the Chargor and the benefit of all rights relating thereto including (without prejudice to the generality of the foregoing) negotiable instruments, legal and equitable charges, reservation of proprietary rights, rights of tracing and unpaid vendors' liens and similar and associated rights;

(f) Other Debts:

By way of first fixed charge, all other monetary debts and claims both present and future including things in action which give rise or may give rise to a debt or debts except any policies of assurance relating to personal accident or permanent health taken out for the purpose of benefiting any employee or his dependants to the extent that the Chargor is under a legal liability to pay out the benefit of such policies or actually pays out the benefit of such policies (whether or not at the discretion of the Chargor) to such employee or his dependants now or hereafter due or owing to the Chargor and the benefit of all rights relating thereto including (without prejudice to the generality of the foregoing) such rights as are described in sub-clause (e) above, and claims arising pursuant to the Hedging Agreements;

(g) Securities:

By way of first fixed charge:

- (i) all stocks and shares and other interests both present and future including (without prejudice to the generality of the foregoing) loan capital, indebtedness or liabilities on any account or in any manner owing to the Chargor in (and from) any company including, without limitation, in (and from) any company which is a Subsidiary of any of the Companies; and
- (ii) the full benefit of all stocks, shares and securities which, or the certificates of which, are now or may at any time hereafter be lodged with or held by or transferred to or registered in the name of the Security Trustee or its nominees; and
- (iii) all rights in respect of or incidental to the property described at (i) and (ii) above (the property described at (i) to (iii) inclusive hereby charged being hereinafter called the "Securities"); and
- (iv) all stocks, shares, rights, moneys or property accruing or offered at any time by way of conversion, redemption, bonus, rights, preference, option, capital reorganisation, or otherwise to or in respect of any of the Securities, including all dividends, interest and other income payable in connection therewith (all of which property described at (i) to (iv) inclusive, hereby charged are hereinafter called "Interests in Securities"),

but so that neither the Security Trustee nor any of the Beneficiaries shall in any circumstances incur any liability whatsoever in respect of any calls, instalments or otherwise in connection with Interests in Securities;

(h) Intellectual Property:

By way of first fixed charge all its rights and interests in intellectual property to the extent that such intellectual property is not validly charged by any of the Trade Marks Charge, the Copyright Mortgage and/or the Patents Charge;

(i) Bank accounts, cash at bank, credit balances:

By way of first fixed charge all bank accounts, cash at bank and credit balances of the Chargor with the Security Trustee, any other Beneficiary or any other person whatsoever including the proceeds of book debts and claims charged pursuant to sub-clauses (e) and (f) which proceeds shall, for the avoidance of doubt, on payment into a Designated Account (as defined in clause 7.1(e) of the Supplemental Guarantee and



Debenture) cease to be subject to such charges in sub-clauses (e) and (f) but shall be subject to the fixed charge in this sub-clause;

(j) Contractual Rights and Claims:

By way of first fixed charge, the benefit of all rights and claims to which the Chargor is now or may be entitled under any contracts relating to the business of the Group or otherwise;

(k) Floating Charge:

By way of floating charge, all the undertaking and all property and assets of the Chargor whatsoever and wheresoever both present and future including (without prejudice to the generality of the foregoing) heritable property and all other property and assets in Scotland, Northern Ireland and the Republic of Ireland and the property described in paragraphs (a) to (j) inclusive if and so far as the charges thereon (or assignments thereof) or on any part thereof herein contained shall for any reason be ineffective as fixed charges.

## **Part IV**

### **Covenants and Restrictions**

1. By Clause 7 the Chargor covenanted to:

(a) Book Debts and Other Debts:

get in and realise all book debts and other monetary debts and claims hereby charged and pay all moneys which it may receive in respect thereof into its account, specified in a letter dated on or about the date of this Supplemental Deed from the Security Trustee to each of the Companies and expressed to be the "Account Designation Letter" (such account being the "Designated Account") forthwith on receipt and, pending such payment, hold all moneys so received upon trust for the Security Trustee and the Beneficiaries and shall not without the prior consent of the Security Trustee in writing purport to sell, charge, factor, discount or encumber or assign or otherwise sell or dispose of the same (or any interest therein) in favour of any other person and shall if called upon to do so by the Security Trustee at any time after the occurrence of an Event of Default or Potential Event of Default which is Continuing:-

- (i) execute a legal assignment of such book debts and other debts and claims, and/or its accounts into which such debts are or have been paid, to the Security Trustee and give notice thereof to the relevant debtor or the account-holding bank as the case may be in the form set out in Part 2 of Schedule V; and/or
- (ii) deliver such particulars as to the amount and nature of such book and other debts and claims as the Security Trustee may from time to time reasonably require;

(b) Negative Pledge:

not, and shall procure that each other Group Company shall not, without the consent in writing of the Security Trustee (and save for any security created in favour of the Security Trustee or Permitted Encumbrances) create, incur or permit to subsist any Encumbrance on any of its present or future property assets or revenues to secure any liability, actual or contingent other than, after the Senior Discharge Date, any Encumbrance which does not rank in priority to or pari passu with the security created in favour of the Security Trustee;

(c) Transfer of Control:

not, and shall procure that each other Group Company shall not, without the prior written consent of the Security Trustee or save as permitted by the Facilities Agreement, enter into any arrangement whereby any person (other than another Group Company which shall have executed a deed supplemental hereto) shall acquire or gain the right to acquire the right to carry on the whole or any part of the trade or business presently being carried on by any Company;

**Part V**

**Registered Property**

<b>Property</b>	<b>Title No.</b>
The Towers, Drake Lane, Dursley	GR135593
All that freehold land lying to the south of Church Road, Dursley	GR135589
All that freehold land previously utilised as an electricity sub-station	GR146031

**Part VI**

**Existing Companies**

<b>Name</b>	<b>Company No.</b>
Lister-Petter Group Limited	3162838
Lister-Petter Limited	49390
RA Lister Overseas Investments Limited	401527

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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. 03162838

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SUPPLEMENTAL GUARANTEE AND DEBENTURE DATED THE 24th AUGUST 1998 AND CREATED BY LISTER-PETTER GROUP LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY AND/OR ALL OR ANY OF THE OTHER COMPANIES NAMED THEREIN TO THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND, AS SECURITY TRUSTEE ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 7th SEPTEMBER 1998.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 9th SEPTEMBER 1998.

*M. Ikram Dar*  
M. IKRAM DAR.

for the Registrar of Companies



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

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