

# M

## COMPANIES FORM No. 395

127684/26

### 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

013

05761822

Name of company

\* OXYGEN FINANCE HOLDINGS LIMITED ( the "Chargor" )

Date of creation of the charge

20 December 2007

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

Debenture between (1) the Chargor and (2) General Capital Venture Finance Limited dated 20 December 2007 (the "Debenture")

Amount secured by the mortgage or charge

Please see attached Schedule 2

Note: All defined terms in this Form 395 are defined in Schedule 1 attached.

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

General Capital Venture Finance Limited whose registered office is at The Oaks, Kirby Road, Trowse, Norwich, Norfolk (the "Lender")

Postcode NR14 8RS

Presenter's name address and reference (if any)

Pinsent Masons  
CityPoint  
One Ropemaker Street  
London  
EC2Y 9AH

21637651.1/630339.07051/JI01

Time critical reference

For official Use (02/00)  
Mortgage Section

Post room

SATURDAY



A05 22/12/2007 326

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

Please see attached Schedule 3

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)

Nil

Signed

*Kensent Mason*

Date 21 December 2007

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 1**

**1 Definitions**

In this Form 395 -

**"Account"** means any account opened or maintained by the Chargor at any bank or financial institution,

**"Charged Property"** means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Lender by or pursuant to this Debenture,

**"Enforcement Action"** means -

- (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand,
- (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge),
- (c) the making of any demand against the Chargor in relation to any guarantee, indemnity or other assurance against loss in respect of any Secured Liabilities,
- (d) the exercise of any right of set-off against the Chargor in respect of any Secured Liabilities excluding any right of set off under a netting arrangement with the Chargor's clearing bank,
- (e) the suing for, commencing or joining of any legal or arbitration proceedings against the Chargor to recover any Secured Liabilities, or
- (f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to the Chargor ,

**"Enforcement Date"** means the date on which the Lender first takes Enforcement Action,

**"Facility Agreement"** means the amended and restated Facility Agreement dated on or about the date of the Debenture and made between (1) Chargor (as Borrower) and (2) Oxygen Finance Limited (as Guarantor) and (3) General Capital Venture Finance Limited (as Lender),

<b>"Finance Documents"</b>	means  (a) the Facility Agreement,  (b) the Debenture,  (c) the Oxygen Finance Debenture, and  (c) Guarantee,
<b>"Fixed Plant and Equipment"</b>	means all plant, machinery or equipment of the Chargor of any kind which does not for any reason constitute a Fixture, but is at the time of the Debenture or at any time directly or indirectly attached by any means and for any purpose to any land or building, whether or not it is removable or intended to form part of the land or building,
<b>"Fixtures"</b>	means all things of any kind at the time of the Debenture or at any time affixed to land for any purpose, including, without limitation, trade and tenants fixtures,
<b>"Guarantee"</b>	means the cross company guarantee dated the same date of the Debenture and made by the Chargor and Oxygen Finance Limited in favour of the Lender
<b>"Insurances"</b>	means any policy of insurance or assurance in which the Chargor has an interest and all claims and rebates of premium under any such policy,
<b>"Intellectual Property"</b>	means any of the following in which the Chargor has an interest -  (a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above,  (b) any invention, copyright, design right or performance right,  (c) any trade secrets, know-how and confidential information, and  (d) the benefit of any agreement or licence for the use of any such right,
<b>"Land"</b>	means any estate, right or interest in or over land, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on land, and the benefit of any covenants or rights owed to any person or enforceable by him by

	virtue of the ownership possession or occupation of land but for these purposes "Land" excludes heritable property situated in Scotland,
<b>"Loose Plant and Equipment"</b>	means, in relation to the Chargor, all plant, machinery, equipment and motor vehicles at the time of the Debenture or at any time owned by the Chargor as a capital asset which is not Fixed Plant and Equipment,
<b>"LPA"</b>	means the Law of Property Act 1925,
<b>"Monetary Claims"</b>	means all book and other debts and monetary claims at the time of the Debenture or in the future owing to the Chargor (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt,
<b>"Oxygen Finance Debenture"</b>	means the debenture dated on or about the date hereof and granted by Oxygen Finance Limited in favour of the Lender
<b>"Related Rights"</b>	means in relation to any Charged Property <ul style="list-style-type: none"><li>(a) the proceeds of sale of any part of that Charged Property,</li><li>(b) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property,</li><li>(c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property, and</li><li>(d) any moneys and proceeds paid or payable in respect of that Charged Property,</li></ul>
<b>"Secured Liabilities"</b>	means all liabilities and obligations of Oxygen Finance Limited and the Chargor, at the time of the Debenture or in the future, owing to the Lender (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the Lender was the original creditor in respect thereof) including without limitation interest, commission, costs, charges and expenses charged by the Lender at rates agreed between it and the Chargor, or in the absence of express agreement, in accordance with the Lender's normal practice for the time being,

- "Securities"** means all the right, title and interest of a Chargor, at the time of the Debenture or in the future, in any -
- (a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person,
  - (b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person, and
  - (c) units or other interests in any unit trust or collective investment scheme, and
- "Security"** means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

#### SCHEDULE 2

**1 COVENANT TO PAY**

**1 1 Secured Liabilities**

The Chargor covenanted that it will on demand of the Lender pay and discharge any or all of the Secured Liabilities when due

**1 2 Interest**

The Chargor covenanted to pay interest to the Lender upon any sum demanded in accordance with Clause 1 1 Schedule 2 of this Form 395 and Clause 2 1 of the Debenture (*Secured Liabilities*) until payment (both before and after any judgment) at two per cent above the rate applicable to that sum immediately before demand (or, if there was no such applicable rate, at two per cent above the base rate of Barclays Bank PLC)

#### SCHEDULE 3

**1 CHARGES**

**1 1 Mortgages and Fixed Charges**

As a continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charged to the Lender all its right, title and interest from time to time in each of the following assets -

- 1 1 1 by way of first legal mortgage all Land which is described in Schedule 4 of this Form 395 and Schedule 1 of the Debenture (if any) and all other Land now vested in the Chargor,

1 1 2 by way of first fixed charge all other Land vested in the Chargor (to the extent not effectively charged by Schedule 3 Clause 1 1 1 of this Form 395 and Clause 3 1 1 of the Debenture) and all Land acquired by the Chargor after the date of the Debenture,

1 1 3 by way of first fixed charge -

- (a) the Securities,
- (b) the Intellectual Property,
- (c) the Monetary Claims,
- (d) the Fixed Plant and Equipment,
- (e) the Loose Plant and Equipment,
- (f) the Accounts,
- (g) the Insurances,
- (h) the Related Rights under or in connection with the Securities, the Accounts, the Insurances, the Intellectual Property, the Monetary Claims, the Fixed Plant and Equipment and the Loose Plant and Equipment, and
- (i) its present and future goodwill and uncalled capital

**1 2 Floating Charge**

As continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charged by way of first floating charge the whole of the Chargor's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by the Debenture, including, without limitation, any heritable property of the Chargor situated in Scotland

**1 3 Trust**

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Chargor shall hold it on trust for the Lender

**1 4 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by the Debenture

**2 RESTRICTIONS ON DEALING**

**2 1 Negative Pledge**

The Chargor undertook that it shall not, at any time during the subsistence of the Debenture, create or permit to subsist any Security over all or any part of the Charged Property, except (a) as expressly permitted under (a) the terms of the Finance Documents and (b) the debenture dated 1 August 2006 and made between the Chargor and the Lender

**2 2 Disposals**

The Chargor undertook that it shall not (and shall not agree to) at any time during the subsistence of the Debenture, except as expressly permitted under the terms of the Finance Documents, sell, transfer, assign, lease or hire out, factor, discount, licence, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until -

2 2 1 the floating charge created by Schedule 3 Clause 1 2 of this Form 395 and Clause 3 2 of the Debenture (*Floating Charge*) is converted into a fixed charge, or

2 2 2 the occurrence of the Enforcement Date,

the Chargor may hold, enjoy and deal with, in accordance with the Finance Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage

**3 SECURITIES**

The Chargor undertook that it shall not exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Lender, would prejudice the effectiveness of, or the ability of the Lender to realise, the security created by or pursuant to the Debenture

**4 ACCOUNT**

**4 1 Account notification and Variation**

The Chargor undertook that, during the subsistence of the Debenture, it shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account unless such account closure is notified in advance to the Lender

**4 2 Account Operation After Enforcement Date**

After the occurrence of the Enforcement Date, the Chargor undertook that it shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender

**5 MONETARY CLAIMS**

The Chargor shall not at any time during the subsistence of the Debenture, without the prior written consent of the Lender or as permitted pursuant to the terms of the Finance Documents, sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing

**6 LAND**

The Chargor shall not (with the intent that this Clause 6 of this Form 395 and Clause 12 of the Debenture (*Land*) shall apply in relation to all Land now vested in the Chargor or acquired by the Chargor after the date of the Debenture) -



**6 1 Repair and Alterations**

without the prior written consent of the Lender, make or permit the making of any alteration or addition to any of its Land (other than internal non-structural alterations) or commit or permit any person to commit any waste upon or injure or in any manner or by any means lessen the value of its Land or sever or permit to be severed from any of its Land any Fixtures except for the purpose of replacing them as soon as practicable with others of equal or greater value,

**6 2 Leases**

6 2 1 accelerate or defer payment of any moneys payable under any such lease and where any lease contains a provision for the review of rent promptly notify the Lender of any attempt by the lessor to implement a review but not agree the reviewed rent or appoint or agree to the appointment of a third party to determine a rent review without the prior written consent of the Lender,

6 2 2 apply for any licence, consent or approval under any such lease or any superior lease without the prior written consent of the Lender,

**6 3 Power of Leasing**

without the prior written consent of the Lender, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of any of its Land or confer or permit to be conferred upon any person any contractual licence, right or interest to occupy or use or grant any licence or permission to assign, underlet or part with possession of the whole or any part of its Land or agree to do any of the foregoing, and sections 99 and 100 of the LPA shall not apply to the Debenture, and

**6 4 Compulsory Acquisition**

without the prior written consent of the Lender enter into any negotiations with any competent authority with regard to the compulsory acquisition of any of its Land or consent to the compulsory acquisition of any of its Land, and, if so requested by the Lender, permit the Lender or its authorised representatives to conduct such negotiations or to give such consent on the Chargor's behalf

**SCHEDULE 4**

The Chargor did not own any Land at the time the Debenture was executed

FILE COPY



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

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

COMPANY No 05761822

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th DECEMBER 2007 AND CREATED BY OXYGEN FINANCE HOLDINGS LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM OXYGEN FINANCE LIMITED AND THE COMPANY TO GENERAL CAPITAL VENTURE FINANCE LIMITED ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 22nd DECEMBER 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 3rd JANUARY 2008

*Range*



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES