

M

COMPANIES FORM No. 395

197923/13

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

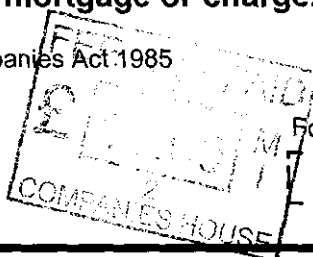
Please do not
write in
this margin

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

00972107

Name of company

* DFS Furniture Company Limited (the "Charging Company")

Date of creation of the charge

31 March 2005

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

Debenture dated 31 March 2005 made between the Charging Company (1), DFS Trading Limited (the "Company") (2) and Lloyds TSB Bank plc (in its capacity as Security Agent for the Beneficiaries (as defined in the attached Schedule) (3) (the "Debenture").

Amount secured by the mortgage or charge

The Secured Sums (as defined in Part I of the attached Schedule).

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

Lloyds TSB Bank plc (in its capacity as Security Agent for the Beneficiaries (as defined in the attached Schedule)), 1st Floor, 25 Gresham Street, London

Postcode EC2V 7HN

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

Lovells
Atlantic House
Holborn Viaduct
London EC1A 2FG

F3PO/WJM/1489635.1

Time critical reference

For official Use (02/00)
Mortgage Section

Post room



LD3
COMPANIES HOUSE

0456
14/04/05

Short particulars of all the property mortgaged or charged

See Part II of the attached Schedule.

The attached Schedule refers to covenants by, and restrictions on, the Charging Company which protect and further define the charges created by the Debenture and which must be read as part of those charges.

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)

N/A

Signed *Lovells*

Date *14 April 2005*

Solicitors
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

SCHEDULE TO FORM 395 FOR DFS FURNITURE COMPANY LIMITED

Part I

Definitions

In this Schedule, references to Clauses and Schedules are to Clauses of, and Schedules to, the Debenture unless otherwise specified. References in this Schedule to the Debenture or to any other document (including any Finance Document) include reference to the Debenture, or to such other document, as varied in any manner from time to time. The singular shall include the plural and vice versa. In this Form 395 the following expressions have the following meanings respectively set out below:

"Accession Letter" has the meaning given to that term in the Facilities Agreement;

"Account Bank" means The Royal Bank of Scotland plc acting through its branch at 15 St Sepulchre Gate, Doncaster, South Yorkshire, DN1 1TF or such other bank as the Security Agent may from time to time specify;

"Acquisition Debt" means all amounts due under the Acquisition Facility Agreements (as defined in the Facilities Agreement);

"Agent" means Lloyds TSB Bank plc in its capacity as agent for each other Finance Parties under the Facilities Agreement;

"Assets" means all the Charging Company's undertaking, property, assets, revenues and rights of every description, or any part of them;

"Beneficiary" means each Finance Party, the Overdraft Bank and the Forex Bank;

"Chargor" means the Charging Company, the Company, and (with effect from its accession) each other company which executes a Deed of Accession and Charge and any company which subsequently adopts the obligations of a Chargor;

"Collection Account" means the Charging Company's account with the Account Bank into which it is required to pay its Receivables pursuant to Clause 6.1 (*Collection Account*);

"Company" means DFS Trading Limited, a limited liability company incorporated in England and Wales with registered number 01735950;

"Company Intra-Group Loan Agreement" means the loan agreement in the agreed form between the Company and certain other members of the Group pursuant to which members of the Group have made or will make a facility available to:

- (a) the Parent, to enable it to repay the Acquisition Debt; and
- (b) Opco Holdco to enable it to repay the Facilities,

up to a maximum aggregate principal amount of the aggregate principal amount of (plus any outstanding interest on) the Acquisition Debt and the Facilities;

"Compliance Certificate" has the meaning given to that term in the Facilities Agreement;

"Debenture Date" means 31 March 2005;

"Deed of Accession and Charge" means a deed of accession and charge substantially in the form of Schedule 3 (*Form of Deed of Accession and Charge for a New Chargor*);

"Derivative Rights" means all dividends, interest or distributions and all other rights and benefits of an income nature accruing at any time in respect of any Investments;

"Excluded lease" means any long leasehold Transferred Property the title of which Opco Holdco is unable to transfer to Propco in accordance with the terms of the SPA due to a failure to procure a consent from a superior landlord of such long leasehold Transferred Properties at the date of completion of the SPA and over which Opco Holdco has granted a limited recourse mortgage in favour of Propco or Propco's financiers;

"Facilities" has the meaning given to that term in the Facilities Agreement;

"Facilities Agreement" means the facilities agreement dated 30 March 2005 and made between Full Circle Future Limited (as Parent), the Company (as the Company), the companies listed therein as Original Borrowers, the companies listed therein as Original Guarantors, the Financial Institutions listed as Original Lenders and Lloyds TSB Bank plc (as Arranger, Original Lender, Agent, Security Agent, Bookrunner, Underwriter and Issuing Bank) (each as defined in the Facilities Agreement unless otherwise defined in this Schedule);

"Fee Letter" has the meaning given to that term in the Facilities Agreement;

"Finance Document" means the Facilities Agreement, any Accession Letter, any Letter of Credit, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Intercreditor Deed, the Mandate Letter, any Security Document, any Utilisation Request and any other document designated as such by the Agent and the Company;

"Finance Party" means the Agent, the Arranger, the Security Agent, a Lender, the Issuing Bank or any Hedge Counterparty (each as defined in the Facilities Agreement unless otherwise defined in this Schedule);

"Fixed Security Asset" means an Asset for the time being comprised within an assignment created by Clause 3.1 (*Assignments*) or within a mortgage or fixed charge created by Clause 3.2 (*Fixed security*);

"Forex Agreements" means the documents governing the provision of the Forex Facilities;

"Forex Bank" means Lloyds TSB Bank plc, in its capacity as provider of the Forex Facilities to the Obligors;

"Forex Facilities" means the foreign exchange facilities referred to in the Schedule to the Overdraft Letter;

"Group" means Opco Holdco and each of its Subsidiaries for the time being;

"Hedging Agreement" has the meaning given to that term in the Intercreditor Deed;

"Hedge Counterparty" has the meaning given to that term in the Intercreditor Deed;

"Holding Account" means an account:

- (a) held in England by a member of the Group with the Agent or Security Agent;
- (b) identified in a letter between the Charging Company and the Agent as a Holding Account; and
- (c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Security Agent,

as the same may be redesignated, substituted or replaced from time to time;

"Insurance Policy" means any contract or policy of insurance of the Charging Company (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of the Charging Company or (to the extent of its interest) in which the Charging Company has an interest at any time;

"Intellectual Property" means in relation to the Charging Company:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of the Charging Company;

"Intellectual Property Rights" means all and any of the Charging Company's Intellectual Property and all other intellectual property rights, causes of action, interests and assets charged by it pursuant to paragraphs (c)(x) to (xv) inclusive of Clause 3.2 (*Fixed security*);

"Intercreditor Deed" has the meaning given to that term in the Facilities Agreement;

"Investments" means all shares, stock, debentures, debenture stock, bonds and other investments (as listed in Part III of the Financial Services and Markets Act 2000 (Regulated Activities Order 2001, SI 2001/544 (as amended))), whether certificated or uncertificated and whether in registered or bearer form, including all depository interests representing any of them and including all rights and benefits of a capital nature accruing at any time in respect of any Investments by way of redemption, repayment, substitution, exchange, bonus or preference, option, rights or otherwise;

"Land" means freehold and leasehold, and any other estate in, land and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade fixtures) but excluding any landlord's fixtures and fittings or any fixtures and fittings belonging to any third party tenants or concessionaires not within the Group;

"Lease" means any lease, letting, underlease or sublease (however remote), tenancy or right to possession, occupation or use and any agreement for any of them pursuant to which the Charging Company owns or occupies any Land;

"Letter of Credit" has the meaning given to that term in the Facilities Agreement;

"Mandate Letter" has the meaning given to that term in the Facilities Agreement;

"Mandatory Prepayment Account" means an interest-bearing account:

- (a) held in England by a Borrower (as defined in the Facilities Agreement) with the Agent or Security Agent;
- (b) identified in a letter between the Charging Company and the Agent as a Mandatory Prepayment Account;
- (c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Agent and Security Agent; and
- (d) from which no withdrawals may be made by any members of the Group except as contemplated by the Debenture,

(as the same may be redesignated, substituted or replaced from time to time);

"Opco Holdco" means the Charging Company;

"Overdraft Bank" means Lloyds TSB Bank plc in its capacity as provider of the Overdraft Facility;

"Overdraft Facility" means the overdraft facility of up to a principal amount of £10,000,000 made available to the Group by the Overdraft Bank on the terms of the purposes set out in the Overdraft Letter;

"Overdraft Letter" means the facility letter dated on or about the date of the Debenture addressed to the Company and Opco Holdco by Lloyds TSB Bank plc setting out the terms and conditions subject to which Lloyds TSB Bank plc is willing to make the Overdraft Facility available to the Group;

"Parent" means Full Circle Future Limited, a limited liability company incorporated under the laws of England and Wales with registered number 5167348;

"Permitted Security" has the meaning given to that term in the Facilities Agreement;

"Propco" means DFS Properties Limited, a limited liability company incorporated in England and Wales with registered number 05394574;

"Propco Intra-Group Loan Agreement" means the loan agreement entered into between Opco Holdco and Propco for the purposes of funding in part Propco's acquisition of the Transferred Properties;

"Real Property" means:

- (a) any freehold, leasehold or immovable property; and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property;

"Realisation Account" means any Mandatory Prepayment Account and any Holding Account;

"Receivables" means all the Charging Company's sums of money receivable by it at the Debenture Date or in the future consisting of or payable under or derived from any Asset described in Clause 3.2 (*Fixed security*);

"Relevant System" has the meaning given to that term by the Uncertificated Securities Regulations 2001 and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investments;

"SPA" means the agreement for the sale and purchase of the Transferred Properties dated on or about the date of the Debenture made between Opco Holdco and Propco;

"Secured Document" means each of the Finance Documents, the Overdraft Letter and the Forex Agreements;

"Secured Sums" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Charging Company to all or any of the Beneficiaries under each or any of the Secured Documents, in each case together with:

- (a) all costs, charges and expenses incurred by any Beneficiary in connection with the protection, preservation or enforcement of its rights under any Secured Document; and
- (b) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under any Secured Document or the obligations and liabilities imposed under such documents;

"Security" 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;

"Security Agent" means Lloyds TSB Bank plc acting as security agent and trustee for the Beneficiaries including any successor appointed by the Beneficiaries pursuant to the Secured Documents;

"Security Document" has the meaning given to that term in the Facilities Agreement;

"Specified Investments" means, in relation to the Charging Company, all Investments which at any time:

- (a) represent a holding in a Subsidiary of the Charging Company or an undertaking which would be its subsidiary undertaking if in section 258(2)(a) of the Act "30 per cent or more" were substituted for "a majority";
- (b) are held in the name of the Security Agent or its nominee or to its order; or
- (c) the Charging Company has deposited certificates for with the Security Agent or which, if uncertificated, are held in an escrow or other account in favour of the Security Agent or its nominee;

"Specified Intellectual Property" means any Intellectual Property, including registrations, by or on behalf of DFS Furniture Company Limited in or related to:

- (a) the DFS logo bubble; and
- (b) the "think sofas, think DFS" slogan,

including in trademarks 2149650, 2331919, 2331919A, 2331919B, 2331920A and 2331920B, and any registrations in relation to such Intellectual Property in classes 11, 14, 16, 20, 21, 24, 27, 36, 37, 39 and 42.

"Subsidiaries" has the meaning given to that term in the Facilities Agreement;

"Transferred Property" means each Real Property transferred or purported to be transferred to Propco pursuant to the terms of the SPA; and

"Utilisation Request" has the meaning given to that term in the Facilities Agreement.

Part II

Short particulars of the property mortgaged or charged

1. By Clause 3.1 (*Assignments*) the Charging Company with full title guarantee, as security for the payment or discharge of all Secured Sums, assigned to the Security Agent:
 - (a) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies subject in the case of any Insurance Policy effected by another party to a Lease the rights of that party and the terms of such Lease; and
 - (b) all its rights, title and interest from time to time in respect of:
 - (i) the Hedging Agreement; and
 - (ii) the SPA.
2. By Clause 3.2 (*Fixed Security*) the Charging Company, with full title guarantee, as security for the payment or discharge of all Secured Sums, charged to the Security Agent:
 - (a) [*intentionally left blank*]
 - (b) by way of legal mortgage, all Land in England and Wales (other than any Excluded Lease) vested in it at the Debenture Date and not registered at the Land Registry;
 - (c) by way of fixed charge:
 - (i) all other Land which at the Debenture Date or in the future becomes its property (but not any Excluded Lease);

- (ii) all interests and rights in or relating to Land (but not any Excluded Lease) or the proceeds of sale of Land at the Debenture Date or in the future belonging to it;
- (iii) all plant and machinery at the Debenture Date or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of Clause 3.2 (excluding any plant and machinery of any tenant that is not a Chargor or a member of the Group and excluding any landlord's fixtures or fittings);
- (iv) all rental and other income and all debts and claims at the Debenture Date or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
- (v) all Specified Investments which are at the Debenture Date, or in the future become, its property;
- (vi) all Derivative Rights at the Debenture Date or in the future accruing in respect of its Specified Investments;
- (vii) where Specified Investments are held in a Relevant System, all its rights against the operator of the Relevant System or any participant in respect of such Specified Investments;
- (viii) all insurance or assurance contracts or policies at the Debenture Date or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are at the Debenture Date or in the future deposited by it with the Security Agent, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in the Debenture;
- (ix) all its goodwill and uncalled capital for the time being;
- (x) all Specified Intellectual Property belonging to it;
- (xi) all other Intellectual Property presently belonging to it, including any Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others;
- (xii) all Intellectual Property that may be acquired by or belong to it in the future, including any such Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others;

- (xiii) the benefit of all agreements and licences at the Debenture Date or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world;
- (xiv) all its rights at the Debenture Date or in the future in relation to trade secrets, confidential information and knowhow in any part of the world;
- (xv) all its rights and causes of action in respect of infringement(s) (past, present or future) of the rights referred to in sub-paragraphs (c)(x) to (xiv) inclusive of Clause 3.2;
- (xvi) all trade debts at the Debenture Date or in the future owing to it;
- (xvii) all debts owing to it as described in Schedule 9 (*Details of Debts Owing to a Chargor by another member of the Group which are subject to a fixed charge*) and as described in Part IV of this Schedule;
- (xviii) all other debts at the Debenture Date or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (xix) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3.1 (*Assignments*);
- (xx) all its interests and rights (if any) in or to any money at any time standing to the credit of any Collection Account;
- (xxi) any beneficial interest, claim or entitlement it has in any pension fund at the Debenture Date or in the future;
- (xxii) all rights, money or property accruing or payable to it at the Debenture Date or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of the Debenture;
- (xxiii) all moneys at any time standing to the credit of any Realisation Account; and
- (xxiv) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them.

3. By Clause 3.3 (*Creation of floating charge*) the Charging Company, with full title guarantee, charged to the Security Agent as security for the payment or discharge of all Secured Sums, by way of floating charge:

- (a) all its Assets, except to the extent that such Assets are for the time being effectively assigned by way of security by virtue of Clause 3.1 (*Assignments*) or charged by any fixed charge contained in Clause 3.2 (*Fixed security*), including any Assets comprised within a charge which is reconverted under Clause 4.4 (*Reconversion*); and
- (b) without exception, all its Assets in so far as they are for the time being situated in Scotland,

but in each case so that the Charging Company shall not create any Security over any such Asset (whether having priority over, or ranking *pari passu* with or subject to, this floating charge) or take any other step referred to in Clause 7 (*Negative pledge and other restrictions*) with respect to any such Asset, and the Charging Company shall not, without the consent of the Security Agent, sell, transfer, part with or dispose of any such Asset except by way of sale in the ordinary course of its business.

Part III

Covenants and restrictions

- 1. By Clause 6.1 (*Collection Account*), the Charging Company agreed to collect and realise all its Receivables and, immediately on receipt, pay all money so collected into the Collection Account specified from time to time by the Security Agent. The Charging Company agreed, pending such payment, to hold all money so received upon trust for the Security Agent.
- 2. By Clause 6.3 (*No Derogation*), the Charging Company agreed not to purport, without the Security Agent's prior written consent, to charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery.
- 3. By Clause 7 (*Negative Pledge and other restrictions*), the Charging Company agreed that it would not, without the prior written consent of the Security Agent (and with the exception of Permitted Security) and any other Security permitted under Clause 26.13 (*Negative Pledge*) of the Facilities Agreement:
 - (c) create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or

- (d) sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.
4. By Clause 11.2 (*Negative covenants*), the Charging Company agreed that without the prior written consent of the Security Agent it would not (amongst other things):
- (a) exercise any power of leasing in relation to its Land, or accept surrenders of leases of its any Land or agree to do so;
 - (b) extend, renew on substantially different terms or vary any lease or tenancy agreement or give any licence to assign or underlet in relation to its Land to the extent that it would be reasonably likely to materially adversely affect its value or the value of the Security constituted by the Debenture; or
 - (c) part with possession of its Land (except on the determination of any lease, tenancy or licence granted to it) or except as expressly permitted by the terms of the Secured Documents;
 - (d) share the occupation of any Land with any other person or agree to do so other than with franchisees and concessionaires in the ordinary course of business of the Group.
5. By Clause 12.2 (*Negative covenants*), the Charging Company agreed that it shall not, without the prior written consent of the Security Agent (other than as expressly permitted by the Secured Documents):
- (a) sell, assign, lease, license, sub-license or grant any interest in its Intellectual Property Rights, or purport or agree to do so or part with possession or ownership of them, or allow any third party access to, or the right to use or exploit, any Intellectual Property Rights;
 - (b) enter into any contract or arrangement for supply or otherwise whereby any third party obtains any assignment of or any right or licence in relation to any Intellectual Property Rights on the occurrence or non-occurrence of any future event or circumstance whatever;
 - (c) amend the specification of any registered trade mark included in its Intellectual Property Rights to the extent that it would be likely to materially adversely affect its value or the value of the Security constituted by the Debenture or authorise or permit any third party to register any trade mark which is the same as or confusingly similar to any such trade mark in respect of goods or services which are the same as or similar to the goods or services for which such trade mark is registered; or

- (d) amend the specification or drawings referred to in any granted patent.

Part IV

Details of debts owing to a Chargor by another member of the Group which are subject to a fixed charge

1. All debts of Propco owing to Opco Holdco pursuant to the Propco Intra-Group Loan Agreement.
2. All debts of the Parent and Opco Holdco owing to any Chargor pursuant to the Company Intra-Group Loan Agreement.

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 00972107

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 31st MARCH 2005 AND CREATED BY DFS FURNITURE COMPANY LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ALL OR ANY OF THE BENEFICIARIES 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 14th APRIL 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 19th APRIL 2005.

P
Gals



Companies House

— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES