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CHFP041

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legibly, preferably
in black type or
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lettering

* Insert full name
of company

COMPANIES FORM No. 395

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)

Name of company

*Coventry Garden Centre Limited (the **Chargor**)

Date of creation of the charge

24 February 2009

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

Security agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and the other Original Chargors and Bank of Scotland plc as Security Agent (as defined below) (the **Security Agreement**)

Amount secured by the mortgage or charge

All present (at the date of the Security Agreement) and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Creditor under any Secured Debt Finance Document, except for any obligation or liability which, if it were so included, would result in the Security Agreement contravening any law (the **Secured Liabilities**)

See Paper Apart 1 for definitions.

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

Bank of Scotland plc, a company incorporated in Scotland (Registered Number SC327000) with its registered office at The Mound, Edinburgh (the **Security Agent**)

Postcode EH1 1YZ

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

Dundas & Wilson CS LLP
Saltire Court
20 Castle Terrace
Edinburgh EH1 2EN

Time critical reference
NP/BOS001.4441

For official use (06/2005)

Mortgage Section

Post room

WEDNESDAY



SCT 04/03/2009 1143
COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

See Paper Apart 2.

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legibly, preferably
in black type or
bold block
lettering

A fee is
payable to
Companies House
in respect of each
register entry for a
mortgage or
charge.
(See Note 5)

Particulars as to commission allowance or discount (note 3)

N/A

Signed

Date 31/3/09

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

Notes

†Delete as
appropriate

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 are to be made payable to **Companies House**.
6. The address of the Registrar of Companies is:- Companies House, Crown Way, Cardiff CF4 3UZ.

This Paper Apart 1 is applicable to the foregoing Form 395 relative to a Security Agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and Bank of Scotland plc as Security Agent.

In this Form 395 the followings terms shall have the following meanings:

Event of Default means:

- (a) any event or circumstance specified as such in Clause 24 (*Events of Default*) in the Hortis Facility Agreement; or
- (b) any event or circumstance specified as such in Clause 21 (*Events of Default*) in the WABL Facility Agreement.

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

Hortis Facility Agreement means the £389,500,000 (reduced to £269,920,000) credit agreement, originally dated 20 April 2006 as amended, restated, extended and supplemented from time to time, between (among others) West Coast Capital (Hortis) Group Limited, West Coast Capital (Hortis) Limited and the Bank of Scotland plc as agent, security agent and lender.

IFRS means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

Intellectual Property means in relation to the Chargor, all its patents (including, without limitation, supplementary protection certificates), utility models, registered and unregistered trade marks (including, without limitation, service marks), rights in passing off, rights in domain names, copyright

and neighbouring rights, database rights, registered and unregistered rights in designs (including in relation to semiconductor products) and all other intellectual property rights and, in each case, rights of a similar or corresponding character and any extensions and renewals of, and any applications for, such rights.

Intellectual Property Rights means all and any of the Intellectual Property and other rights, causes of action, interests and assets of the Chargor related to the Intellectual Property.

Intercompany Loan Receivables means any receivables of the Chargor under Financial Indebtedness granted by any member(s) of the Group.

Investments means, in relation to the Chargor:

- (a) the shares specified in Part 2 of Schedule 2 (*Security Assets*) of the Security Agreement opposite its name (and as set forth in Paper Apart 4 attached hereto); and
- (b) all other shares, stocks, debentures, bonds, warrants, coupons and other securities and investments owned by it or held by any nominee on its behalf (other than any interest in Blooms Properties Limited Partnership (registered number LP 011083)).

Mortgaged Property means, in relation to the Chargor:

- (a) all freehold and leasehold property specified in Part 1 of Schedule 2 (*Security Assets*) of the Security Agreement opposite its name (and as set forth in Paper Apart 3 attached hereto); and
- (b) all other estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use property.

New Deed of Guarantee means the deed of guarantee dated the Restructuring Date between the Obligors and the Security Agent.

Obligor means a Borrower, a Guarantor and a Chargor (each as defined in the Hortis Facility Agreement) and including the Chargor (as defined in this Form 395).

Receiver means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under the Security Agreement.

Relevant Contract means in relation to the Chargor any agreement specified in Part 3 of Schedule 2 (*Security Assets*) of the Security Agreement opposite its name (and as set forth in Paper 5 attached hereto).

Restructuring Date means 24 February, 2009.

Secured Creditors means:

- (a) the Guaranteed Parties as defined in the New Deed of Guarantee;
- (b) the Finance Parties under and as defined in the Hortis Facility Agreement; and
- (c) the Finance Parties under and as defined in the WABL Facility Agreement.

Secured Debt Finance Documents means:

- (a) the New Deed of Guarantee;

- (b) the Extended Finance Documents under and as defined in the Hortis Facility Agreement; and
- (c) the Extended Finance Documents under and as defined in the WABL Facility Agreement.

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect.

Security Assets means all assets of the Chargor the subject of the Security in the Security Agreement.

WABL Facility Agreement means the £80,000,000 (reduced to £30,480,000) facility agreement originally dated 30th August, 2007 (as amended and restated from time to time) between, among others, Wyevalle Acquisitions Borrower Limited and Bank of Scotland plc as agent and lender.

This Paper Apart 2 is applicable to the foregoing Form 395 relative to a Security Agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and Bank of Scotland plc as Security Agent.

In this Form 395:

1 Creation of Security

1.1 General

- (a) All the Security in the Security Agreement:
 - (i) is created in favour of the Security Agent;
 - (ii) is security for the payment, discharge and performance of all the Secured Liabilities; and
 - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the Chargor assigns an agreement (other than a leasehold interest) under the Security Agreement (or charges it by way of a first fixed charge) and the assignment or charge breaches a term of that agreement because a third party's consent has not been obtained:
 - (i) the Chargor must notify the Security Agent immediately;
 - (ii) the assignment or charge will not take effect until that consent is obtained;
 - (iii) unless the Security Agent otherwise requires, the Chargor must, and each other Chargor must ensure that the Chargor will, use all reasonable endeavours to obtain the consent as soon as practicable; and
 - (iv) the Chargor must promptly supply to the Security Agent a copy of the consent obtained by it.
- (c) The Security Agreement shall not effect any Security over any interest in Blooms Properties Limited Partnership (registered number LP 011083). Neither the Security Agent nor any Secured Creditor shall have any recourse against the interest in, or assets of, Blooms Properties Limited Partnership.
- (d) The Security Agent holds the benefit of the Security Agreement on trust for the Secured Creditors.
- (e) The fact that no or incomplete details of any Security Asset are inserted in Schedule 2 (*Security Assets*) to the Security Agreement does not affect the validity or enforceability of the Security.

1.2 Land

The Chargor charges:

- (a) by way of a first legal mortgage all of its Mortgaged Property; and

- (b) (to the extent that they are not the subject of a mortgage under paragraph 2.2(a) of the Security Agreement (as set forth in paragraph 1.2(a) above) by way of first fixed charge all of its Mortgaged Property.

1.3 Investments

The Chargor charges by way of a first legal mortgage all of its Investments.

1.4 Plant and machinery

The Chargor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant and machinery in its possession.

1.5 Credit balances

The Chargor charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any account it has with any person and the debt represented by that account.

1.6 Insurances

- (a) The Chargor assigns absolutely, subject to a proviso for reassignment on redemption, all amounts payable to it under or in connection with each of its insurances and all of its rights in connection with those amounts.
- (b) To the extent that they are not effectively assigned under paragraph 2.6(a) of the Security Agreement (as set forth in paragraph 1.6(a) above), the Chargor charges by way of first fixed charge all amounts and rights described in paragraph 2.6(a) of the Security Agreement (as set forth in paragraph 1.6(a) above).
- (c) The Chargor charges by way of first fixed charge all amounts payable to it under or in connection with each of its other insurances and all of its rights in connection with those amounts.
- (d) A reference in clause 2.6 of the Security Agreement (as set forth in this paragraph 1.6) to any amounts excludes all amounts received or receivable under or in connection with any third party liability insurance and required to settle a liability of an Obligor to a third party.

1.7 Other contracts

- (a) The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of:
 - (i) its Relevant Contracts;
 - (ii) its Intercompany Loan Receivables;
 - (iii) any letter of credit issued in its favour, and
 - (iv) any bill of exchange or other negotiable instrument held by it.
- (b) To the extent that any right described in paragraph 2.7(a) of the Security Agreement (as set forth in paragraph 1.7(a) above) is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph 2.7(a) of the Security

Agreement (as set forth in paragraph 1.7(a) above) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.

- (c) To the extent that they do not fall within any other sub-clause of clause 2 of the Security Agreement (as set forth in this clause 1) and are not effectively assigned under paragraphs 2.7(a) and 2.7(b) of the Security Agreement (and as set forth in paragraphs 1.7(a) and 1.7(b) above), the Chargor charges by way of first fixed charge all of its rights under each agreement and document to which it is a party.

1.8 Intellectual Property

The Chargor charges by way of a fixed first charge all of its rights in respect of its Intellectual Property Rights.

1.9 Miscellaneous

The Chargor charges by way of a first fixed charge:

- (a) any beneficial interest, claim or entitlement it has to any assets of any pension fund;
- (b) its goodwill;
- (c) the benefit of any authorisation (statutory or otherwise) held in connection with its business or the use of any Security Asset;
- (d) the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to in paragraph 2.9(c) of the Security Agreement (as set forth in paragraph 1.9(c) above); and
- (e) its uncalled capital.

1.10 Floating charge

- (a) The Chargor charges by way of a first floating charge all of its assets whatsoever and wheresoever not otherwise effectively mortgaged, charged or assigned under the Security Agreement and in the case of assets situated in Scotland or governed by Scots law, whether or not the same have been otherwise effectively mortgaged, charged or assigned under the Security Agreement.
- (b) Except as provided below, the Security Agent may by notice to the Chargor convert the floating charge created by the Chargor under the Security Agreement into a fixed charge as regards any of the Chargor's assets specified in that notice, if:
 - (i) an Event of Default is continuing;
 - (ii) the Security Agent considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy; or
 - (iii) the Chargor fails to comply, or takes or threatens to take any action which, in the reasonable opinion of the Security Agent, is likely to result in it failing to comply with its obligations under clause 23.1 (Restrictions on security) of the Hortis Facility Agreement.

(c) The floating charge created under the Security Agreement may not be converted into a fixed charge solely by reason of:

- (i) the obtaining of a moratorium; or
- (ii) anything done with a view to obtaining a moratorium,

under section 1A to the Insolvency Act 1986.

(d) The floating charge created under the Security Agreement will (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge over all of the Chargor's assets:

- (i) if an administrator is appointed or the Security Agent receives notice of an intention to appoint an administrator; or
- (ii) on the convening of any meeting of the members of the Chargor to consider a resolution to wind the Chargor up (or not to wind the Chargor up).

(e) Paragraphs (b) and (d) of Clause 2.10 (*Floating charge*) of the Security Agreement (as set forth in paragraphs 1.10(b) and 1.10(d) above) will not apply to any assets of the Chargor situated in Scotland or governed by Scots law 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 conversion.

(f) The floating charge created under the Security Agreement is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

(g) The giving by the Security Agent of a notice under paragraph 2.10(b) of the Security Agreement (as set forth in paragraph 1.10(b) above) in relation to any asset of the Chargor will not be construed as a waiver or abandonment of the Security Agent's rights to give any other notice in respect of any other asset or of any other right of any other Secured Creditor under the Security Agreement or any other Secured Debt Finance Document.

(h) The floating charge created under the Security Agreement does not include any interest in Blooms Properties Limited Partnership.

2. Voting Rights

(a) Before the Security in the Security Agreement becomes enforceable, the Chargor may continue to exercise the voting rights, powers and other rights in respect of its Investments.

(b) If the relevant Investments have been registered in the name of the Security Agent or its nominee, the Security Agent (or that nominee) must exercise the voting rights, powers and other rights in respect of the Investments in any manner which the Chargor may direct in writing. The Security Agent (or that nominee) will execute any form of proxy or other document which the Chargor may reasonably require for this purpose.

(c) Before the Security in the Security Agreement becomes enforceable, all dividends or other income or distributions paid or payable in relation to any Investments must be paid to the Chargor. To achieve this:

- (i) the Security Agent or its nominee will promptly execute any dividend mandate necessary to ensure that payment is made direct to the Chargor; or
 - (ii) if payment is made directly to the Security Agent (or its nominee) before the Security in the Security Agreement becomes enforceable, the Security Agent (or that nominee) will promptly pay that amount to the Chargor.
- (d) Before the Security in the Security Agreement becomes enforceable, the Security Agent shall use its reasonable endeavours to promptly forward to the Chargor all material notices, correspondence and/or other communication it receives in relation to the Investments.
- (e) After the Security in the Security Agreement has become enforceable, the Security Agent or its nominee may exercise or refrain from exercising:
- (i) any voting rights; and
 - (ii) any other powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise,
- in each case, in the name of the Chargor, the registered holder or otherwise and without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor.
- (f) To the extent that the Investments remain registered in the name of the Chargor, the Chargor irrevocably appoints the Security Agent or its nominee as its proxy to exercise all voting rights in respect of those Investments at any time after the Security in the Security Agreement has become enforceable.
- (g) The Chargor must indemnify the Security Agent against any loss or liability incurred by the Security Agent as a consequence of the Security Agent acting in respect of its Investments on the direction of the Chargor.

3. Further Assurances

The Chargor must, at its own expense, take whatever action the Security Agent or a Receiver may require for:

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to the Security Agreement;
- (b) facilitating the realisation of any Security Asset;
- (c) facilitating the exercise of any right, power or discretion exercisable by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset; or
- (d) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by the Security Agent) over any assets of the Chargor located in any jurisdiction outside England and Wales.

This includes:

- (i) the re-execution of the Security Agreement;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient.

4. Power of Attorney

The Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and each of their respective delegates and sub-delegates to be its attorney to take any action which the Chargor is obliged to take under the Security Agreement. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under clause 19 of the Security Agreement (as set forth in this clause 4).

5. Preservation of Security

The Security in the Security Agreement is a continuing security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

6. Covenant to pay

The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Secured Debt Finance Documents.

7. Financial collateral

- (a) To the extent that the assets mortgaged or charged under the Security Agreement constitute "financial collateral" and the Security Agreement and the obligations of the Chargor under the Security Agreement constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right after the Security in the Security Agreement has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) For the purpose of paragraph 21.7(a) of the Security Agreement (as set forth in paragraph 7(a) above), the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

This Paper Apart 3 is applicable to the foregoing Form 395 relative to a Security Agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and Bank of Scotland plc as Security Agent.

Real Property

None.

This Paper Apart 4 is applicable to the foregoing Form 395 relative to a Security Agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and Bank of Scotland plc as Security Agent.

Investments

None.

This Paper Apart 5 is applicable to the foregoing Form 395 relative to a Security Agreement dated 24 February 2009 between, among others, West Coast Capital (Hortis) Group Limited, the Chargor and Bank of Scotland plc as Security Agent.

Contracts

None.



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

**COMPANY NO. 1027670
CHARGE NO. 5**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED 24
FEBRUARY 2009 AND CREATED BY COVENTRY GARDEN
CENTRE LIMITED FOR SECURING ALL MONIES DUE OR TO
BECOME DUE FROM EACH OBLIGOR TO ANY SECURED
CREDITOR 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
4 MARCH 2009

GIVEN AT COMPANIES HOUSE, CARDIFF THE 10 MARCH 2009

