



Registration of a Charge

Company Name: **PEAR TREE NURSERIES LTD.**

Company Number: **SC293380**



Received for filing in Electronic Format on the: **28/10/2022**

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Details of Charge

Date of creation: **26/10/2022**

Charge code: **SC29 3380 0014**

Persons entitled: **ARES MANAGEMENT LIMITED (AS SECURITY AGENT)**

Brief description: **ALL AND WHOLE SUBJECTS AT 32 MEADOWPARK, HADDINGTON, EH41 4DS, BEING THE SUBJECTS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER ELN12670.**

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SHEPHERD AND WEDDERBURN LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 293380

Charge code: SC29 3380 0014

The Registrar of Companies for Scotland hereby certifies that a charge dated 26th October 2022 and created by PEAR TREE NURSERIES LTD. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th October 2022 .

Given at Companies House, Edinburgh on 31st October 2022

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**



SHEPHERD+ WEDDERBURN

Execution Version

STANDARD SECURITY

by

PEAR TREE NURSERIES LTD.
as Chargor

in favour of

ARES MANAGEMENT LIMITED
as Security Agent

Property: 32 Meadowpark, Haddington, EH41 4DS

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STANDARD SECURITY

BY

- (1) **PEAR TREE NURSERIES LTD**, a company incorporated in Scotland (Company Number SC293380) and having its registered office formerly at 7 Craigengall Farm Crofts Westfield West Lothian EH48 3DZ and now at Argyll House, Quarrywood Court, Livingston, West Lothian, EH54 6AX (the "**Chargor**");
in favour of
- (2) **ARES MANAGEMENT LIMITED**, a company incorporated in England & Wales (Company Number 05837428), having its registered office at C/O Tmf Group 8th Floor, 20 Farringdon Street, London, United Kingdom, EC4A 4AB as agent and trustee for the Secured Parties (the "**Security Agent**").

BACKGROUND

- (A) Pursuant to (i) an Accordion Request dated on or about 5 October 2022 from Oakley Early Years Midco Limited to the Agent and (ii) an Increase Commitment Notice dated on or about 6 October 2022 from the Original Lenders to the Agent and Oakley Early Years Midco Limited (for and on behalf of each other Obligor), the parties thereto have agreed, *inter alia*, to establish a new accordion facility under the terms of the Facilities Agreement (the "**October 2022 Accordion Facility**"); and
- (B) This Standard Security is granted in connection with the Finance Documents.

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

Unless otherwise provided in this Standard Security, terms defined in the Facilities Agreement shall have the same meaning where used in this Standard Security.

In addition, in this Standard Security, unless the context otherwise requires, the following words shall have the following meanings:

"**Act**" means the Conveyancing and Feudal Reform (Scotland) Act 1970;

"**Declared Default**" means an Event of Default which has resulted in the Agent exercising any of its rights under clause 24.19 (*Acceleration*) of the Facilities Agreement;

"**Existing Security Documents**" means any floating charge, share pledge, standard security or other security agreement with an effective date dated on or before the effective date of this Standard Security granted by the Chargor in favour of the Security Agent pursuant to the terms of the Facilities Agreement;

"**Facilities Agreement**" means the facilities agreement originally dated 28 June 2021 and made between, amongst others, Oakley Early Years Midco Limited (formerly Thunder UK Midco Limited), Oakley Early Years Bidco Limited (formerly Thunder UK Bidco Limited) and the Security Agent relating to certain loan and other banking facilities;

"**Moveables**" means any plant, machinery, equipment, furniture or other moveable property on the Property (whether attached or not);

"**Property**" means ALL and WHOLE subjects at 32 Meadowpark, Haddington, EH41 4DS, being the subjects registered in the Land Register of Scotland under Title Number ELN12670;

"**Secured Liabilities**" means all present and future liabilities and obligations at any time due, owing or incurred by each Obligor to any Secured Party under or in connection with the Finance Documents, both actual and contingent and whether incurred solely or jointly, as principal or surety and/or in any other capacity;

"**Security**" means a standard security, charge or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

"Security Period" means the period starting on the effective date of this Standard Security and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and

"Standard Conditions" means the standard conditions as specified in Schedule 3 to the Act.

1.2 Construction

- (a) Unless otherwise provided in this Standard Security, the provisions of clause 1.2 (*Interpretation*) and clause 1.3 (*Currency symbols and definitions*) of the Facilities Agreement apply to this Standard Security as though they were set out in this Standard Security, *mutatis mutandis*.
- (b) In this Standard Security (unless the context requires otherwise) any reference to:
 - (i) the Chargor, each Obligor, each Secured Party or any other person shall be construed so as to include their successors in title, permitted assigns and permitted transferees;
 - (ii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended (however fundamentally, including any amendment providing for any increase in the amount of any facility or other liability) from time to time with the agreement of the relevant parties and (where such consent is, by the terms of any Finance Document or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior consent of the Security Agent;
 - (iii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iv) the Security constituted by this Standard Security becoming **"enforceable"** shall mean that the Security created under this Standard Security has become enforceable under Clause 8.1 (*Enforcement events*);
 - (v) a Declared Default is **"continuing"** if the acceleration notice under clause 24.9 (*Acceleration*) of the Facilities Agreement has not been withdrawn;
 - (vi) an Event of Default is **"continuing"** if it has not been remedied or waived;
 - (vii) **"law"** includes the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing;
 - (viii) a provision of law is a reference to that provision as amended or re-enacted from time to time;
 - (ix) a time of day is a reference to London time;
 - (x) any gender includes a reference to the other genders;
 - (xi) the singular includes a reference to the plural and *vice versa*; and
 - (xii) a Clause is to a clause of or to this Standard Security.
- (c) Clause headings are for ease of reference only.
- (d) Notwithstanding anything to the contrary in this Standard Security the terms of this Standard Security shall not operate or be construed so as to prohibit or restrict any transaction, matter or other step not prohibited by the Facilities Agreement and the Intercreditor Agreement or where the required consent has been obtained, the relevant Secured Party shall promptly enter into such documentation and/or take such other action as is required by the Chargor (acting reasonably) in order to facilitate any such transaction, matter or other step, including by way of executing any confirmation, consent to dealing, release or other similar or equivalent document, provided that any costs and expenses incurred by the Secured Party entering into such documentation and/or taking such other action at the request of the Chargor pursuant to this Clause shall be for the account of the Chargor, in accordance with the costs and expenses provisions set out in clause 18 (*Cost and Expenses*) of the Facilities Agreement.

1.3 Secured Liabilities

References in this Standard Security to the Secured Liabilities shall be construed in relation to the Finance Documents so as to include (i) any increase or reduction in any amount made available thereunder and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used, (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available thereunder, (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing and (iv) any combination of any of the foregoing, including (but not limited to) all present and future liabilities and obligations at any time due, owing or incurred by each Obligor to any Secured Party under or in connection with the October 2022 Accordion Facility.

1.4 Conflict with Facilities Agreement

If there is any conflict between the provisions of this Standard Security and the provisions of the Facilities Agreement, the provisions of the Facilities Agreement shall prevail.

1.5 Existing Security Documents

- (a) This Standard Security is in addition, and without prejudice, to the Existing Security Documents. The parties agree that:
 - (i) each Existing Security Document continues in full force and effect and continues to secure the Secured Liabilities; and
 - (ii) they are entering into this Standard Security in case, notwithstanding their agreement set out in Clause 1.5(a)(i), any Existing Security Document is or becomes ineffective in any way.
- (b) In the event of any inconsistency between an Existing Security Document and this Standard Security (other than in respect of this Clause 1.5), the Existing Security Document shall prevail.
- (c) The satisfaction of any obligation of the Chargor under an Existing Security Document shall, where it is also contained in this Standard Security, be deemed to satisfy the same obligation of the Chargor under this Standard Security.
- (d) Without prejudice to the generality of Clauses 1.5(a) to 1.5(c), any reference to Security being created by this Standard Security "with warrandice" is qualified by and subject to the Security created by the Existing Security Documents in respect of the Property unless and to the extent that, notwithstanding the agreement set out in Clause 1.5(a)(i), the relevant Security created by, or a relevant provision of, an Existing Security Document is or becomes ineffective.

2. Undertaking to pay; Further advances

2.1 Undertaking to pay

The Chargor hereby undertakes to the Security Agent (as trustee for the Secured Parties) that it will on demand pay and discharge all Secured Liabilities owing or incurred from or by any Obligor to the Secured Parties when the same become due in accordance with the terms of the Finance Documents, whether by acceleration or otherwise.

2.2 Potential invalidity

Neither the undertaking to pay in Clause 2.1 (*Undertaking to pay*) nor the Security constituted by this Standard Security shall extend to or include any liability or sum which would, but for this Clause, cause such undertaking or Security to be unlawful under any applicable law.

2.3 Further advances

This Standard Security secures further advances made under or pursuant to the terms of the Finance Documents and the Lenders are, subject to and upon the terms and conditions of the Finance Documents, under an obligation to make further advances.

3. Grant of security

3.1 Standard Security

The Chargor as continuing security for the payment and discharge of the Secured Liabilities hereby grants a standard security in favour of the Security Agent over the Property.

3.2 **Incorporation and variation of Standard Conditions**

- (a) The Standard Conditions and any lawful variation thereof operative for the time being shall apply to the standard security granted pursuant to Clause 3.1.
- (b) The Standard Conditions shall be varied in accordance with the express provisions of this Standard Security and the provisions of the other Finance Documents and the Chargor agrees that the undertakings and the obligations on the debtor's part and the rights of the creditor contained in the Standard Conditions (as thus varied) shall be in addition to the undertakings and obligations on the part of the Chargor and the rights of the Security Agent respectively contained in the Finance Documents.
- (c) In the event of any conflict between the terms of the Standard Conditions and the terms of the Finance Documents, the Finance Documents shall prevail.

4. **Restrictions on dealing**

The Chargor hereby undertakes to the Security Agent that it will not at any time except in accordance with the terms of the Facilities Agreement or with the prior consent of the Security Agent:

- 4.1 create or purport to create or permit to subsist any Security on or in relation to the Property; or
- 4.2 enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, surrender, part with possession or otherwise dispose of or cease to exercise control of all, or part of, any interest in the Property.

5. **Property undertakings**

The Chargor hereby undertakes with the Security Agent that it will:

5.1 **Maintenance**

keep all buildings on the Property and all fixtures belonging to it thereon and therein in good and substantial repair and condition (fair wear and tear excepted);

5.2 **Information**

- (a) as soon as reasonably practicable after becoming aware thereof give full particulars to the Security Agent of any notice, order, direction, designation, resolution or proposal having specific application to the Property or to the locality in which it is situated given or made by any planning authority or other public body or authority whatsoever; and
- (b) if required by the Security Agent, forthwith and at the cost of the Chargor take all steps to comply with any such notice, order, direction, designation or resolution and make or join with the Security Agent in making such objections or representations in respect of any such proposal as the Security Agent may reasonably desire;

5.3 **Compliance with obligations**

- (a) observe and perform all covenants, stipulations and conditions to which the Property or the user thereof is now or may hereafter be subjected;
- (b) perform and observe all covenants and conditions on its part contained in any lease, agreement for lease, licence or other agreement under which the Property or part of the Property is held; and
- (c) promptly pay all taxes, fees, duties, rates, charges and other outgoings in respect of the Property;

5.4 **Maintenance of interests in the Property**

not without the prior consent of the Security Agent or as permitted in the Facilities Agreement:

- (a) grant or agree to grant any licence, lease, trust or tenancy affecting the Property or part of the Property; or
- (b) in any other way dispose or agree to dispose of or surrender or create any interest in, or over, or otherwise relating to the Property or any part thereof;

5.5 **Registration restrictions**

procure that no person shall be registered under the Land Registration etc. (Scotland) Act 2012 as heritable proprietor or long leaseholder of the Property or any part thereof without the prior consent of the Security Agent;

5.6 Development restrictions

not without the prior consent of the Security Agent carry out or permit or suffer to be carried out on any Property any development as defined in the Town and Country Planning (Scotland) Act 1997 or change or permit or suffer to be changed the use of the Property;

5.7 No restrictive obligations

not without the prior consent of the Security Agent enter into any onerous or restrictive obligations, real burdens affecting the Property or any part thereof or create or permit to arise any overriding interest or servitude or right whatever in or over the Property or any part thereof;

5.8 Proprietary rights

procure that no person shall become entitled to assert any proprietary or other like right or interest over the Property or any part thereof without the prior consent of the Security Agent; and

5.9 Inspection

permit the Security Agent, its nominee, delegate and any person appointed by it to enter upon and inspect the Property upon reasonable prior notice (being at least 24 hours).

6. Representations and warranties

6.1 Representations and warranties

The Chargor represents and warrants to the Security Agent, on the effective date of this Standard Security, as follows:

- (a) it has not received or acknowledged notice of any adverse claim by any person in respect of the Property or any interest in it;
- (b) there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially and adversely affect the Property; and
- (c) no facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use.

6.2 Repetition

The representations and warranties set out in Clause 6.1 (*Representations and warranties*) will be deemed to be repeated by the Chargor on the date of each Drawdown Request and the first day of each Interest Period by reference to the facts and circumstances then existing.

6.3 Notice of breach

The Chargor will promptly upon becoming aware of the same give the Security Agent notice in writing of any breach of any representation or warranty set out in Clause 6.1 (*Representations and warranties*).

7. Power to remedy

7.1 If the Chargor is at any time in breach of any of its obligations contained in this Standard Security, the Security Agent shall be entitled (but shall not be bound) to remedy such breach and the Chargor hereby irrevocably authorises the Security Agent and its agents to do all things necessary in connection therewith.

7.2 The rights of the Security Agent contained in this Clause 7 are without prejudice to any other rights of the Security Agent hereunder and the exercise by the Security Agent of its rights under this Clause shall not make the Security Agent liable to account as a heritable creditor in possession.

8. Enforcement

8.1 Enforcement events

Without prejudice to the generality of Standard Condition 9(1)(b) the Chargor shall be held to be in default and the security constituted by this Standard Security shall become immediately enforceable upon the occurrence of a Declared Default which is continuing.

8.2 **No obligation to enquire**

No person dealing with the Security Agent, its nominee, delegate or its agents or brokers, shall be concerned to enquire:

- (a) whether the security constituted by this Standard Security has become enforceable;
- (b) whether any power exercised or purported to be exercised has become exercisable;
- (c) whether any money remains due under the Finance Documents;
- (d) as to the necessity or expediency of the stipulations and conditions subject to which any sale of the Property shall be made, or otherwise as to the propriety or regularity of any sale of any of the Property; or
- (e) how any money paid to the Security Agent or its agents or brokers is to be applied.

8.3 **No liability as heritable creditor in possession**

The Security Agent shall not be liable:

- (a) to account as heritable creditor in possession in respect of all or any part of the Property; or
- (b) for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Property for which a heritable creditor in possession might as such be liable.

8.4 **Power to dispose of Moveables**

After the security constituted by this Standard Security has become enforceable, the Security Agent, its nominee or delegate may dispose of any Moveables found on the Property and which forms part of the Property as agent for the Chargor and, without prejudice to any obligation to account for the proceeds of any sale of such Moveables the Security Agent, its nominee or delegate shall be indemnified by the Chargor against any liability arising from such disposal.

8.5 **Redemption of prior Security**

At any time after the security constituted by this Standard Security shall have become enforceable the Security Agent may:

- (a) redeem any prior Security;
- (b) procure the transfer thereof to itself; and/or
- (c) settle and pass the accounts of the prior encumbrancer and any account so settled and passed shall be conclusive and binding on the Chargor and all monies paid by the Security Agent to the prior encumbrancer in accordance with such accounts shall as from such payment be due from the Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

9. **Amounts received**

9.1 **Application of proceeds**

9.2 The Security Agent shall apply all monies received by him (other than insurance monies):

- (a) first in paying all rents, taxes, duties, rates and outgoings affecting the Property;
- (b) secondly in paying all costs, charges and expenses of and incidental to his appointment and the exercise of his powers and all outgoings paid by him;
- (c) thirdly in paying his remuneration;
- (d) fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Finance Documents; and
- (e) finally in paying any surplus to the Chargor or any other person entitled to it.

9.3 **Currencies of denomination**

For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this Standard Security from their existing denominations and/or currencies of denomination into such other denominations and/or currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange.

9.4 **Suspense account**

All monies received recovered or realised by the Security Agent under this Standard Security may at the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities.

9.5 **New accounts**

If the Security Agent receives notice of any subsequent charge or other interest affecting all or part of the Property, the Security Agent may open a new account or accounts for the Chargor in its books and (without prejudice to the Security Agent's right to combine accounts) no money paid to the credit of the Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Security Agent does not open a new account or accounts immediately on receipt of such notice then unless the Security Agent gives express notice to the contrary to the Chargor as from the time of receipt of such notice by the Security Agent all payments made by the Chargor to the Security Agent in the absence of any express appropriation by the Chargor to the contrary shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

9.6 **Security Agent set-off rights**

If the Security Agent shall have more than one account for the Chargor in its books the Security Agent may at any time after the security constituted by this Standard Security has become enforceable or the Security Agent has received notice of any subsequent charge or other interest affecting all or any part of the Property not permitted by the Facilities Agreement and without prior notice forthwith transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit but the Security Agent shall notify the Chargor of the transfer having been made.

10. **Power of attorney and delegation**

10.1 **Power of attorney**

The Chargor irrevocably appoints the Security Agent to be the attorney of the Chargor and in its name and on its behalf and as its act and deed or otherwise and at any time after a Declared Default which has occurred and is continuing, or if the Chargor is in breach of any of its obligations under Clause 11.5 (*Further assurance*) (other than if the breach is capable of remedy and is remedied within five Business Days of the earlier of (i) the Security Agent giving written notice to the Chargor of the Breach and (ii) the Chargor becoming aware of the breach), to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any deed, transfer, assurance, agreement, instrument, notice or act which the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of the Chargor's obligations under this Standard Security.

10.2 **Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm:

- (a) all lawful transactions entered into by the Security Agent in the proper exercise of its powers in accordance with this Standard Security; and
- (b) all lawful transactions entered into by the Security Agent in signing, sealing, delivering and otherwise perfecting any assignment, assignation, mortgage, standard security, charge, security, document or other act.

Subject to the terms of the Facilities Agreement, the Security Agent shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Standard Security (including the power of attorney), on such terms and conditions as it or he shall see fit which shall not preclude exercise of these powers, authorities or discretions by it or him or any revocation of the delegation or subsequent delegation.

11. Protection of security and further assurance

11.1 Independent security

This Standard Security shall be in addition to and independent of every other security or guarantee that the Security Agent or any other Secured Party may at any time hold for any of the Secured Liabilities. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Property shall merge in the security created by this Standard Security.

11.2 Continuing security

This Standard Security shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part.

11.3 No waivers; rights cumulative

No failure to exercise, nor delay in exercising, on the part of the Security Agent or any Secured Party, any right or remedy under this Standard Security shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise, or the exercise of any other right or remedy. The rights and remedies of the Security Agent and each Secured Party provided in this Standard Security are cumulative and not exclusive of any rights or remedies provided by law.

11.4 No Chargor set-off

The Chargor waives any right of set-off it may have now or at any time in the future in respect of the Secured Liabilities (including sums payable by the Chargor under this Standard Security).

11.5 Further assurance

(a) The Chargor shall, as soon as reasonably practicable upon request by the Security Agent, at its own expense, take whatever action the Security Agent may reasonably require for:

- (i) creating, perfecting or protecting any security intended to be created by or pursuant to this Standard Security;
- (ii) at any time after a Declared Default which is continuing facilitating the realisation of the Property;
- (iii) exercising any right, power or discretion conferred on the Security Agent or any of its delegates or sub-delegates in respect of the Property; or
- (iv) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this Standard Security) over any assets of the Chargor located in any jurisdiction outside of Scotland.

(b) This includes:

- (i) the re-execution of this Standard Security;
- (ii) the execution of any standard security, legal mortgage, charge, transfer, conveyance, assignation, 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 (or its nominee or delegate, as appropriate) may think expedient.

12. Costs and indemnity

12.1 The provisions of clause 18 (*Costs and expenses*) of the Facilities Agreement are incorporated into this Standard Security as if set out in full *mutatis mutandis*.

12.2 The Chargor hereby agrees to indemnify the Security Agent, its nominee or delegate from and against all actions, claims, expenses, demands and liabilities, whether arising out of contract or in delict or in any other way, which may at any time be incurred by him or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers pursuant to this Standard Security so long as such actions, claims, expenses, demands and

liabilities did not arise as a consequence of the gross negligence or wilful default of the Security Agent, its nominee or any delegate.

13. Miscellaneous

13.1 Benefit of this Standard Security

The benefit of this Standard Security will be held by the Security Agent on and subject to the terms of the Finance Documents on trust for the benefit of itself and the other Secured Parties without preference or priority amongst themselves as security for the Secured Liabilities, except as provided under the Finance Documents.

13.2 Certificates conclusive

A certificate or determination by the Security Agent as to any amount or rate under this Standard Security shall be conclusive evidence of that amount or rate in the absence of any manifest error.

13.3 Severability

If any provision of this Standard Security is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.

13.4 Third party rights

Save as expressly provided to the contrary in any Finance Document, a third party (being any person other than the Chargor and the Secured Parties and their successors and permitted assignees) has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Standard Security. Notwithstanding any term of any Finance Document, the consent of any such third party is not required to rescind or vary this Standard Security at any time.

14. Demands and notices

Any demand, notice, consent or communication to be made or given by or to the Chargor or the Security Agent under or in connection with this Standard Security (other than any Calling-up-Notices or Notices of Default which shall be served in accordance with Sections 19 and 21, respectively, of the Act) shall be made and delivered as provided in clause 20 (*Notices*) of the Facilities Agreement. Any demand on the Chargor shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

15. Assignment and transfer

15.1 Assignment by Security Agent

15.2 The Security Agent may at any time without the consent of the Chargor, assign or transfer the whole or any part of its rights under this Standard Security to any person to which it can transfer its rights in accordance with the terms of the Finance Documents.

15.3 Assignment by Chargor

The Chargor may not assign any of its rights or transfer any of its obligations under this Standard Security or enter into any transaction which would result in any of these rights or obligations passing to another person.

16. Release of Security

16.1 Release

Subject to Clause 16.3 (*Discharge conditional*), upon the expiry of the Security Period, or where the discharge of this Standard Security is permitted by the terms of the Facilities Agreement (but not otherwise), the Security Agent shall at the request and cost of the Chargor, take whatever action is necessary to discharge this Standard Security.

16.2 Avoidance of payments and reinstatement

If any payment by an Obligor or any discharge given by a Secured Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is (i) capable of being avoided or reduced (in the reasonable opinion of the Security Agent) or (ii) avoided or reduced in each case as a result of insolvency or any similar event, then:

- (a) the liability of each Obligor will continue as if the payment, discharge, avoidance or reduction had not occurred;
- (b) each Secured Party will be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred; and
- (c) the Security Agent shall be entitled to enforce this Standard Security subsequently as if such payment, discharge, avoidance or reduction had not occurred.

16.3 Discharge conditional

Any release, discharge or settlement between the Chargor and the Security Agent or any other Secured Party shall be deemed conditional upon no payment or security received by the Security Agent or such other Secured Party in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement:

- (a) the Security Agent or its nominee shall be at liberty to retain this Standard Security and the Security created by or pursuant to this Standard Security, including all certificates and documents relating to the Property or any part thereof, for such period as the Security Agent shall deem necessary to provide the Security Agent with security against any such avoidance or reduction or order for refund; and
- (b) the Security Agent shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such settlement, discharge or release had not occurred and the Chargor agrees with the Security Agent accordingly and charges the Property and the proceeds of sale thereof with any liability under this Clause, whether actual or contingent.

17. Security Period

Each obligation of the Chargor (other than a payment obligation) contained in this Standard Security must be complied with at all times during (and only during) the Security Period and is given for the benefit of the Security Agent and each other Secured Party.

18. Governing Law

This Standard Security and any non-contractual obligations arising out of or in connection with it are governed by Scots law.

19. Counterparts, Delivery and Effective Date

- 19.1 This Standard Security may be executed in any number of counterparts and by each of the parties on separate counterparts.
- 19.2 Where executed in counterparts:
 - (a) this Standard Security will not take effect until each of the counterparts has been delivered;
 - (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
 - (c) the date of delivery may be inserted in the testing clause in the blank provided for the effective date of this Standard Security.

20. Consent to Registration

The Chargor consents to the registration of this Standard Security and of any certificate referred to in Clause 13.2 (*Certificates conclusive*) for preservation and execution.

21. Warrandice

The Chargor grants warrandice.

IN WITNESS WHEREOF these presents consisting of this and the 10 preceding pages have been executed in counterpart by the parties as undernoted, with an effective date of 24 October 2022:

The Chargor

SUBSCRIBED for and on behalf of
PEAR TREE NURSERIES LTD.

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

TRACEY WINTER Full Name

[REDACTED] Address

DERBY

The Security Agent

SUBSCRIBED for and on behalf of
ARES MANAGEMENT LIMITED
as Security Agent

AtLondon.....

On19-10-2022.....

ByJohn Atherton.....
Full Name

.....
Authorised Signatory

In the presence of this witness:

.....
Witness

.....MARIA PINTO..... Full Name

.....40 New Burlington Street
London W1S 3BE..... Address