

# M

CHFP025

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legibly, preferably  
in black type, or  
bold block lettering

\*insert full name  
of Company

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

125900/20

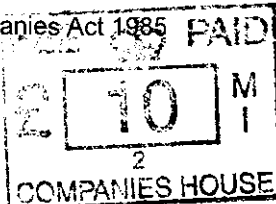
# 395

A fee of £10 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



For official use

Company number

4947688

\* Magicport Limited (the "Chargor")

Date of creation of the charge

28 January 2004

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

Debenture made between Magicport Limited (1) and (2) Halifax PLC (the  
"Debenture")

Amount secured by the mortgage or charge

Please see attached schedule 1.

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

Halifax PLC  
33 Old Broad Street  
London (the "Agent")

Postcode EC2N 1HZ

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

Taylor Wessing  
Carmelite, 50 Victoria  
Embankment, Blackfriars,  
London, EC4Y 0DX

SWL

Time critical reference

HAL-57-6/Deb\_Magic

For official Use  
Mortgage Section

Post room



A25  
COMPANIES HOUSE

\*AKZ5MESH\*

0699  
29/01/04

Short particulars of all the property mortgaged or charged

Please see attached schedule 2.

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legibly, preferably  
in black type, or  
bold block  
lettering

Particulars as to commission allowance or discount (note 3)

Nil

Signed Taylor Wessing

Date 28 January 2004

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

A fee of £10 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 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 CF14 3UZ

## Definitions

In this Form 395 and schedule the following expressions have the following meanings:

**"Building Contract", "Development", "Development Agreement", "Development Documents", "Drawdown Date", "Managing Agent", "Quarter", "Rent Account", "Sale Proceeds Account", and "VAT Account"** have the respective meanings assigned to them in the Agreement (defined below) and the following expressions shall have the following meanings:

**"Administrator"** means any administrator of the Chargor appointed by the Agent under paragraph 14 of schedule B1 to the Insolvency Act 1986;

**"Agreement"** means a syndicated loan agreement dated 16 April 2002 (as amended and/or restated from time to time) made between the Borrower (1), the Developer (2), the Nominees (3), the Banks (4) and the Agent (5);

**"Agreements for Lease"** means any agreements for lease in respect of the Property granted by the Chargor on terms and with a tenant approved by the Agent in writing (such approval not to be unreasonably withheld or delayed) (each an **"Agreement for Lease"**);

**"Assigned Agreements"** means any agreement in respect of the Subordinated Loans and any Agreement for Lease and any other documents specified in clause 3.1(e) of the Debenture;

**"Bank"** means, subject to clause 17.3 of the Agreement (Transfer Certificate to be used except for Bank mergers):

- (a) a bank or financial institution listed in the signature pages of this agreement and acting through the branch indicated in such pages, unless it has delivered a Transfer Certificate or Certificates covering the whole amount of its Commitment and participation; and
- (b) a Transferee;

**"Beneficiaries"** means each of the Agent, the Banks and any Hedge Counterparty;

**"Borrower"** means 99 Queen Victoria Street 2 Limited a limited liability company incorporated in Jersey, Channel Islands whose registered office is at 22 Grenville Street, St Helier, Jersey JE4 8PX;

**"Charged Property"** means all property mortgaged, charged or assigned by the Debenture;

**"Debts"** means all existing and future book and other debts and rights to money and income liquidated and unliquidated owing to the Chargor including the benefit of all negotiable instruments, securities, guarantees and indemnities for such debts and rights but not including cash at bank;

**"Designated Account"** means:

- (a) any account with the Agent; or

- (b) any account with any other bank which has been notified of the Agent's interest in such account and has agreed in writing not to permit withdrawals from such account except with the written consent of the Agent;

**"Developer"** means Hines 99 QVS Developments Limited, a company incorporated in England and Wales (company number 4402895) whose registered office is at 100 New Bridge Street, London EC4V 6JA;

**"Encumbrance"** means any mortgage, charge, assignment by way of security, pledge, lien (save as arising in the ordinary course of business and by operation of law), any form of distress, attachment, execution or other legal process or any other type of encumbrance or security interest or any other type of arrangement having or intended to have a similar effect;

**"Enforcement Date"** means the date on which the Agent has issued a notice to the Borrower reserving its right to take any action under any one or more of the Security Documents in respect of an Event of Default which is continuing;

**"Environmental Law"** means any Law concerning the protection of the environment or human health, the condition of any Real Property or of any place of work or the production, storage, treatment, transport or disposal of any substance capable of causing harm to any living organism or the environment;

**"Event of Default"** means any event referred to in clause 12.1 of the Agreement (Event of Default);

**"Finance Documents"** has the meaning assigned to it in the Agreement;

**"Head Lease"** has the meaning assigned to it in the Agreement;

**"Hedge Counterparty"** means a Bank in its capacity as counterparty to any Hedging Agreement with the Borrower;

**"Hedging Agreement"** means any agreement entered into by a Hedge Counterparty and the Borrower the effect of which is or is intended to be to limit or fix the net amount of interest payable by the Borrower on the whole or any part of the Loan (or any option which if exercised would have such effect);

**"Hines Group"** means any partnership, company, corporation, trust, or other entity as to which effective control resides directly or indirectly in Gerald D. Hines or Jeffrey C. Hines, their parents, brothers and sisters, their respective spouses and children (including adopted children), the successors of any of these persons, the trustee of any trust whose vested beneficiaries comprise these persons, or any partnership, company or other entity held or controlled directly or indirectly by these persons, the successors of these persons or their trustees. Hines Group includes any fund whose "general partner", (i.e. the entity charged with management), or fund manager, is within the Hines Group;

**"Intellectual Property"** means any existing and future right in respect of any patent, copyright, trade mark, service mark, invention, design, knowhow, confidential information or any other kind of intellectual property whether registered or unregistered and any registration or application for registration, licence or permission relating to any of the foregoing;

**"Investment"** means any existing and future:

- (a) stock, share, bond or any form of loan capital of or in any legal entity;
- (b) unit in any unit trust or similar scheme;
- (c) warrant or other right to acquire any such investment;

and, to the extent not constituting a Debt, any income, offer, right or benefit in respect of any such investment;

**"Law"** includes:

- (a) common law;
- (b) any statute, bye-law, regulation; and
- (c) any kind of subordinate legislation

and any legally enforceable order, code of practice, circular, guidance note, licence consent or permission made or given pursuant to any of the foregoing not merely any contractual, voluntary or consensual arrangement (and lawful and unlawful shall be construed accordingly):

**"Lease"** means a lease in respect of the Property (other than the Head Lease) or any part of the Property and includes any underlease, tenancy, letting, licence, guarantee or deposit document supplemental or collateral to any of them or any agreement to enter into any of them existing as at the date of the Agreement;

**"LPA"** means the Law of Property Act 1925;

**"Nominees"** means together 99 Queen Victoria Street 1 Limited and 99 Queen Victoria Street 3 Limited each a limited liability company incorporated in Jersey, Channel Islands whose registered office are at 22 Grenville Street, St Helier, Jersey JE4 8PX and each a **"Nominee"**;

**"Obligors"** has the meaning assigned to it in the Agreement;

**"Permitted Encumbrance"** has the meaning assigned to it in the Agreement;

**"Property"** means:

1. The leasehold property known as shop unit 1, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
2. The leasehold property known as shop unit 2, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
3. The leasehold property known as lower ground floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).

4. The leasehold property known as ground floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
5. The leasehold property known as first floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
6. The leasehold property known as second floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
7. The leasehold property known as third floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2).
8. The leasehold property known as fourth floor, 99 Queen Victoria Street, London as more particularly described in a lease dated 28 November 2003 made between Tributerealm Limited (1) and the Chargor (2);

**"Real Property"** means all freehold or leasehold property forming part of the Charged Property (including the Chargor's interest in the Property);

**"Receiver"** means any receiver appointed over any Charged Property whether under the Debenture or by order of the court on application by the Agent and includes a receiver and manager and an administrative receiver;

**"Rent"** means in respect of the Property all rent and other income payments or sums payable to the Borrower or the Chargor in respect of the Property or any part thereof by any lessee, tenant, licensee or other occupier of such Property or part thereof including any surety for the same but not including (a) Service Charges or (b) any Value Added Tax payable on any of the above;

**"Sale "** means in relation to the Property or any part of it the grant of a Lease or an Agreement for Lease or an assignment of the lessee's interest in the Head Lease, in each such case at a premium;

**"Sale Proceeds"** means 100% of the gross proceeds of a Sale (including a premium in respect of the grant of a Lease) or of any other dealings in any interest in all or any part of the Property;

**"Security Documents"** has the meaning assigned to it in the Agreement;

**"Service Charges"** means any service charges payable by any lessee, tenant, licensee or other occupier of the Property or the freehold interest pursuant to the terms of any Lease or any tenancy or licence or other arrangement, including but not limited to costs of maintenance, lighting, cleaning, heating, insurance and promotion fund contributions and premiums and other sums and Value Added Tax thereon; and

**"Subordinated Loans"** means any loan made to the Chargor by Hines Real Estate Holdings Limited Partnership or any other member of the Hines Group; and

**"Value Added Tax"** means value added tax or any other tax substituted for that tax.

## Schedule 1

### *Amount secured by the mortgage or charge*

All liabilities of the Obligors and the Chargors owed or expressed to be owed to the Beneficiaries under or in connection with the Finance Documents (including any guarantees or letters of credit) whether owed jointly or severally, as principal or surety or in any other capacity.

(the "**Secured Liabilities**")

## Schedule 2

### *Short particulars of the property mortgaged or charged*

#### 1. **Fixed Security**

As continuing security for the payment of the Secured Liabilities each Chargor with full title guarantee:

- (a) charged to the Agent as trustee for itself and the Beneficiaries by way of first legal mortgage to the extent it can do so or the extent it cannot charge its interest by way of first legal mortgage do so by way of equitable mortgage all of its right, title and interest to the Real Property;
- (b) charged to the Agent as trustee for itself and the Beneficiaries by way of *equitable mortgage* its interest in any freehold or leasehold property acquired by the Chargor after the date of the Debenture;
- (c) assigned to the Agent as trustee for itself and the Beneficiaries by way of fixed charge its interest in the Rent, Sale Proceeds, Service Charges and Value Added Tax and the benefit of any guarantee or security for the performance of payment of the Rent, Service Charges and Value Added Tax;
- (d) charged to the Agent as trustee for itself and the Beneficiaries by way of fixed charge its interest in:
  - (i) all existing and future fittings, plant, equipment, machinery, tools, vehicles, furniture and other tangible movable property;
  - (ii) any Investment;
  - (iii) its existing and future goodwill and uncalled capital;
  - (iv) all existing and future cash at bank;
  - (v) any Intellectual Property;
  - (vi) any moneys now or at any time after the date of the Debenture standing to the credit of any Designated Account; and

- (vii) to the extent not otherwise subject to any fixed security in favour of the Agent:
  - (A) any existing and future proceeds of any insurance of any Charged Property; and
  - (B) any sum now or at any time after the date of the Debenture received by each Chargor as a result of any order of the court under sections 213, 214, 238, 239 or 244 of the Insolvency Act 1986;
- (e) assigned to the Agent as trustee for itself and the Beneficiaries by way of fixed charge its interest in (if any) and the benefit of:
  - (i) any Agreement for Lease;
  - (ii) the Subordinated Loans;
  - (iii) the benefit of any guarantee or security for the performance of the agreements or other documents mentioned in paragraphs (i) and (ii) above and any agreement for the surety of goods and services provided that if any such agreement, document, guarantee or security is expressed to be non-assignable then the Chargor charges to the Agent as trustee for itself and the Beneficiaries by way of fixed charge its interest in and the benefit of it;
- (f) charged its interest in the Debts to the Agent as trustee for itself and the Beneficiaries by way of fixed charge; and
- (g) charged to the Agent as trustee for itself and the Beneficiaries by way of fixed charge, all other existing and future property of the Chargor not charged or assigned by the previous paragraphs of this clause (other than the Chargor's stock in trade or work in progress).

## **2. Floating Security**

### **2.1 Creation**

As continuing security for the payment of the Secured Liabilities the Chargor charged to the Agent as trustee for itself and the Beneficiaries by way of floating charge with full title guarantee the whole of its existing and future undertaking and property to the extent not otherwise at any time subject to any fixed charge in favour of the Agent.

### **2.2 Conversion**

The Agent may at any time by written notice to the Chargor convert the floating charge created under clause 4.1 of the Debenture into a fixed charge as regards any property specified in the notice if:

- (a) an Enforcement Date has occurred; or
- (b) in the reasonable opinion of the Agent such property is at risk of becoming subject to any Encumbrance (other than in favour of the Agent)



or is otherwise at risk of ceasing to be within the ownership or control of the Chargor.

2.3 *Moratorium under 1986 Act*

The Agent shall not be entitled to convert the floating charge created by clause 4.1 of the Debenture into a fixed charge as a result only of the Chargor obtaining a moratorium or anything done with a view to obtaining a moratorium under section 1A and schedule A1 to the Insolvency Act 1986.

2.4 *Qualifying floating charge*

Paragraph 14(2)(a) of schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 4.1 of the Debenture which is a "qualifying floating charge" for the purpose of paragraph 14(1) of schedule B1 to the Insolvency Act 1986.

**NOTE:**

The Debenture contains, inter alia, the following restrictions:

Subject to and in accordance with the provisions of the Agreement, the Chargor will not except with the prior written consent of the Agent:

- (a) sell, transfer, lease or otherwise dispose or purport or agree to dispose of any interest in or lend or grant any licence or other right over any property mortgaged, charged or assigned under clause 3 of the Debenture save as permitted under the Finance Documents or the grant of any Lease or Agreement for Lease in respect of which the Agent has given its written consent (such consent not to be unreasonably withheld or delayed) or, save for full consideration in money or money's worth and in the ordinary course of the Chargors' business, dispose of any interest in or lend or grant any licence or other right over any of the property charged by way of floating charge under clause 4 of the Debenture;
- (b) create, agree to create or allow to arise or remain outstanding any Encumbrance over any Charged Property save for any Permitted Encumbrances; or
- (c) redeem or purchase its own shares or provide financial assistance for such purposes or pay any dividend.

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## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04947688

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 28th JANUARY 2004 AND CREATED BY MAGICPORT LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO HALIFAX PLC 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 29th JANUARY 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 30th JANUARY 2004.

*Fun*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES