

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

211266/13

# 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

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use Company number

[5][1][1][1]

307859

Name of company

\* H&R Johnson Tiles Limited (the "Company").

Date of creation of the charge

23 March 2006

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

A debenture dated 23 March 2006 (the "Debenture") made between, *inter alia*, the Company and Barclays Bank PLC as security trustee (the "Security Trustee").

Amount secured by the mortgage or charge

All present and future obligations and Liabilities of the Company to the Secured Creditors (or any of them) under or in relation to any one or more of the Finance Documents provided that no obligation or Liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, the Security (or any part thereof) would be unlawful or prohibited by any applicable law (the "Secured Obligations").

(In this Form 395, unless otherwise defined, capitalised terms used have the meaning given thereto in Schedule 2).

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

Barclays Bank PLC (as Security Trustee for the benefit of the Secured Creditors) (the "Chargee")  
5 The North Colonnade, London

Postcode E14 4BB

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

White & Case  
5 Old Broad Street  
London  
EC2N 1DW

ref: MB/AJ/4404164-0015 (#1697617)

Time critical reference

For official Use (02/00)  
Mortgage Section

Post room



A31  
COMPANIES HOUSE

432  
05/04/2006

See Schedule 1.

Please do not  
write in  
this margin

*Please complete  
legibly, preferably  
in black type, or  
bold block  
lettering*

01  
95

Particulars as to commission allowance or discount (note 3)

Nil.

Signed

White & Case

Date

4.4.06

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

On behalf of ~~XXXXXX XXXXXX~~ [chargee] †

† 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

Continuation Sheet 1 to Form 395

*Schedule 1 to Form 395 relating to a Debenture dated 23 March 2006 between, inter alios, the Company and the Security Trustee*

**Short particulars of all property mortgaged or charged**

By Clause 3 (*Fixed Charges*) of the Debenture, the Company with full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations, has charged in favour of the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement:

- (a) by way of first legal mortgage, all of the Real Property (if any) specified in Part I of Schedule 2 (*Real Property*) of the Debenture and all other Real Property now vested in the Company and the proceeds of sale of all or any part thereof;
- (b) by way of first fixed charge (but in the case of paragraphs (v) and (vi) only if and to the extent the rights in question have not been effectively assigned pursuant to Clause 4 (*Assignments*) of the Debenture or such rights have been effectively assigned but such assignment has not been perfected by the service of the appropriate Notice of Assignment):
  - (i) to the extent not effectively charged pursuant to paragraph (a) of Clause 3 (*Fixed Charges*) of the Debenture, all estates or interests in any Real Property (whether such interests are freehold, leasehold or licenses) vested in, or acquired by, it now or after the date of the Debenture and the proceeds of sale of all or any part thereof;
  - (ii) to the extent not effectively charged pursuant to paragraph (a) or (b)(i) of Clause 3 (*Fixed Charges*) of the Debenture, all plant and machinery, equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Company's stock-in-trade or work in progress) now or in the future owned by the Company or (to the extent of such interest) in which the Company has an interest and the benefit of all contracts and warranties relating to the same;
  - (iii) all of the Charged Deposits;
  - (iv) all Investments and all Related Rights now or in the future beneficially and/or legally owned by the Company;
  - (v) all of the Company's rights, title, interests and benefits in, to or in respect of the Insurances and all claims (and proceeds) and returns of premiums in respect thereof to which the Company is now or may at any future time become entitled;
  - (vi) (to the extent that the same do not fall within any other sub-paragraph of this paragraph (b)) all of the Company's rights, title, interests and benefits in, to or in respect of the Material Contracts;
  - (vii) all the present and future goodwill of the Company (including all brand names not otherwise subject to a fixed charge or assignment under the Debenture);
  - (viii) all of the Company's rights, title, interests and benefits in, to or in respect of all present and future licences, consents and authorisations (statutory or otherwise) held in connection with the business of the Company or the use of any asset of the Company and the right to recover and receive all compensation which may at any time become payable to it in respect of any such licence;
  - (ix) all the present and future uncalled capital of the Company; and
  - (x) all the present and future Registered Intellectual Property Rights of the Company including, without limitation, the patents, registered designs and trade marks specified in Part II of Schedule 2 (*Registered Intellectual Property Rights*) of the Debenture (if any).

By Clause 4.1 (*Assignments*) of the Debenture, and subject to Clause 4.2 (*Non-Assignable Rights*) of the Debenture, the Company has assigned to the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement with full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations:

- (a) all of such Company's rights, title, interests and benefits in, to or in respect of the Insurances (including all proceeds) and all claims and returns of premiums in respect thereof to which such Company is now or may at any future time become entitled;
- (b) all of the Assigned Deposits;

**Continuation Sheet 2 to Form 395**

- (c) all of the Company's rights, title, interests and benefits in, to or in respect of the Material Contracts;
- (d) to the extent not charged under the provisions of Clause 3(b)(xi) of the Debenture all of the Company's present and future Intellectual Property Rights; and
- (e) all of its rights, title, interests and benefits in, to and in respect of the Intercompany Loans.

By Clause 4.2 (*Non-Assignable Rights*) of the Debenture, the Company has declared that to the extent that any right, title, interest or benefit described in Clause 4.1 (*Assignments*) of the Debenture is not assignable or not effectively assigned pursuant to Clause 4.1 (*Assignments*) of the Debenture for whatever reason, the Company shall:

- (a) hold the benefit of the same on trust for the Security Trustee as security for the payment and discharge of the Secured Obligations; and
- (b) promptly upon becoming aware thereof, notify the Security Trustee of the same and the reasons therefor and thereafter take such steps as the Security Trustee may reasonably require to remove such prohibition or other reason for such incapacity.

By Clause 5.1 (*Creation of Floating Charge*) of the Debenture, the Company, with full title guarantee and as continuing security for the payment, discharge and performance of the Secured Obligations, has charged in favour of the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement by way of a first floating charge all its undertaking and assets whatsoever and wheresoever both present and future, not effectively charged pursuant to Clause 3 (*Fixed Charges*) of the Debenture or effectively assigned pursuant to Clause 4 (*Assignments*) of the Debenture.

By Clause 6.1 (*Continuing and Independent Security*) of the Debenture, the Security constitutes and is continuing security which shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Obligations, shall continue in full force and effect until the end of the Security Period and is in addition to and independent of, and shall not prejudice or merge with, any other security (or any right of set-off) which the Security Trustee or any other Secured Creditor may hold at any time for the Secured Obligations or any of them.

By Clause 8.2 (*Negative Pledge*) of the Debenture, the Company will not create or permit to subsist any Security (as defined in the Facilities Agreement) over all or any of its present or future assets other than:

- (a) Security (as defined in the Facilities Agreement) constituted by or created pursuant to any of the Finance Documents; and
- (b) other Security (as defined in the Facilities Agreement) expressly permitted under the terms of the Finance Documents.

*Schedule 2 to Form 395 relating to a Debenture dated 23 March 2006 between, inter alios, the Company and the Security Trustee*

**Defined Terms**

**"Accession Letter"** means a document substantially in the form set out in schedule 6 (*Form of Accession Letter*) of the Facilities Agreement.

**"Account"** means, in respect of the Company, each account maintained by the Company with a bank or other financial institution.

**"Additional Borrower"** means a company which becomes an Additional Borrower in accordance with clause 29 (*Changes to the Obligors*) of the Facilities Agreement.

**"Additional Guarantor"** means a company which becomes an Additional Guarantor in accordance with clause 29 (*Changes to the Obligors*) of the Facilities Agreement.

**"Agency Fees Letter"** means the letter dated on or prior to the Closing Date from the Agent to Norcros (Holdings) Limited in respect of fees payable in accordance with clause 15.3 (*Agency Fee*) of the Facilities Agreement.

**"Agent"** means Barclays Bank PLC

**Continuation Sheet 3 to Form 395**

**"Agent's Spot Rate of Exchange"** means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.

**"Ancillary Commencement Date"** means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall be a Business Day within the Availability Period for Facility E.

**"Ancillary Commitment"** means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under clause 9 (*Ancillary Facilities*), to the extent that amount is not cancelled or reduced under the Facilities Agreement or the Ancillary Documents relating to that Ancillary Facility.

**"Ancillary Document"** means each document relating to or evidencing the terms of an Ancillary Facility.

**"Ancillary Facility"** means any ancillary facility made available by an Ancillary Lender in accordance with clause 9 (*Ancillary Facilities*) of the Facilities Agreement.

**"Ancillary Lender"** means each Lender which makes available an Ancillary Facility in accordance with clause 9 (*Ancillary Facilities*) of the Facilities Agreement.

**"Ancillary Outstandings"** means, at any time in relation to an Ancillary Lender and an Ancillary Facility, the aggregate (as calculated by that Ancillary Lender) of the following amounts outstanding under that Ancillary Facility then in force:

- (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that such credit balance is freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility; and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

in each case as determined by such Ancillary Lender in accordance with the relevant Ancillary Document, acting reasonably in accordance with its normal banking practice.

**"Arrangement Fees Letter"** means the letter dated on or prior to the Closing Date from the Mandated Lead Arranger to Norcros (Holdings) Limited in respect of fees payable in accordance with clause 15.2 (*Arrangement Fee*) of the Facilities Agreement.

**"Assigned Account"** means:

- (a) each Account identified in Part V of Schedule 2 (*Assigned Accounts*) of the Debenture and any renewal or redesignation thereof; and
- (b) any other Account designated in writing as such by the Security Trustee.

**"Assigned Deposit"** means the balance from time to time standing to the credit of an Assigned Account, including all interest credited to such Assigned Account and the relevant Company's right, title and interest in and to the benefit of such Assigned Account and to the Financial Indebtedness represented by such credit balance.

**"Availability Period"** means:

- (a) in relation to Facility A, Facility B and Facility C the period from and including the Closing Date to and including 30 June 2006;
- (b) in relation to Facility D the period from and including the Closing Date to and including the date falling 180 days thereafter;
- (c) in relation to Facility E, the period from and including the Closing Date to and including the date falling one month prior to the Termination Date in respect of Facility E; and
- (d) in relation to Facility F, the period from and including the Closing Date to and including the date that is the third anniversary of the Closing Date.

**Continuation Sheet 4 to Form 395**

**"Available Ancillary Commitment"** means, in relation to an Ancillary Facility, a Facility E Lender's Ancillary Commitment less the Ancillary Outstandings in relation to that Ancillary Facility;

**"Available Commitment"** means, in relation to a Facility, a Lender's Commitment under that Facility minus:

- (a) the Base Currency Amount of its participation in any outstanding Utilisations under that Facility; and
- (b) in relation to any proposed Utilisation, the Base Currency Amount of its participation in any Loans or Facility E Guarantees that are due to be made or, as the case may be, issued under that Facility on or before the proposed Utilisation Date.

For the purposes of calculating a Facility E Lender's Available Commitment in relation to any proposed Utilisation under Facility E only, the following amounts shall not be deducted from a Facility E Lender's Commitment:

- (i) that Facility E Lender's participation in any Facility E Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date;
- (ii) that Facility E Lender's participation in any Facility E Guarantee which has an Expiry Date on or before the proposed Utilisation Date; and
- (iii) that Facility E Lender's Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date.

**"Base Currency"** means sterling;

**"Base Currency Amount"** means:

- (a) in relation to a Utilisation, the amount specified in the Utilisation Request delivered by a Borrower for that Utilisation (or if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of the Facilities Agreement) and, in the case of a Facility E Guarantee in an Optional Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the last day of the relevant Quarter (as required by clause 7.2 (*Revaluation of Facility E Guarantee*) of the Facilities Agreement); and
- (b) in relation to an Ancillary Commitment, the amount specified in the notice delivered to the Agent by the Company pursuant to clause 9.2(b)(i)(5) of the Facilities Agreement (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of the Facilities Agreement),

as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation, or (as the case may be) cancellation or reduction of an Ancillary Facility.

**"Borrower"** means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with clause 29 (*Changes to the Obligors*) of the Facilities Agreement.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day.

**"Charged Accounts"** means:

- (a) each Collateral Account;
- (b) each Account maintained by any Company with the Security Trustee identified in Part VI of Schedule 2 (*Charged Accounts*) of the Debenture and any renewal or redesignation thereof; and
- (c) any other Account maintained by any Company with the Security Trustee designated in writing as a Charged Account by the Security Trustee.

**Continuation Sheet 5 to Form 395**

**"Charged Deposit"** means the balance from time to time standing to the credit of a Charged Account, including all interest credited to such Charged Account and the Company's right, title and interest in and to the benefit of such Charged Account and to the Financial Indebtedness represented by such credit balance.

**"Closing Date"** means the date of the Facilities Agreement.

**"Collateral Account"** has the meaning specified in clause 8.4(a)(ii) (*Accounts and Receipts*) of the Debenture.

**"Commitment"** means a Facility A Commitment, a Facility B Commitment, a Facility C Commitment, a Facility D Commitment, a Facility E Commitment or a Facility F Commitment.

**"Expiry Date"** means, in respect of a Facility E Guarantee, the date on which such Facility E Guarantee is to expire in accordance with its terms.

**"Facilities Agreement"** means the term and revolving facility agreement dated 23 March 2006 and made between Norcros (Holdings) Limited as a Borrower and Guarantor, the other companies named therein as Original Borrowers and Original Guarantors, Barclays Leveraged Finance as mandated lead arranger (the **"Mandated Lead Arranger"**), the financial institutions named therein as Original Lenders, the Agent, Barclays Bank PLC as underwriter (the **"Underwriter"**) and the Security Trustee.

**"Facility"** means Facility A, Facility B, Facility C, Facility D, Facility E or Facility F.

**"Facility A"** means the term loan facility made available under the Facilities Agreement as described in clause 2 (*The Facilities*) of the Facilities Agreement.

**"Facility A Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading *"Facility A Commitment"* in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility A Commitment transferred to it under the Facilities Agreement; and
  - (b) in relation to any other Lender, the amount in the Base Currency of any Facility A Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.

**"Facility A Loan"** means a loan made or to be made under Facility A or the principal amount outstanding for the time being of that loan.

**"Facility B"** means the term loan facility made available under the Facilities Agreement as described in clause 2 (*Facilities*) of the Facilities Agreement.

**"Facility B Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading *"Facility B Commitment"* in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility B Commitment transferred to it under the Facilities Agreement; and
  - (b) in relation to any other Lender, the amount in the Base Currency of any Facility B Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.

**"Facility B Loan"** means a loan made or to be made under Facility B or the principal amount outstanding for the time being of that loan.

**"Facility C"** means the term loan facility made available under the Facilities Agreement as described in clause 2 (*The Facilities*) of the Facilities Agreement.

**Continuation Sheet 6 to Form 395**

**"Facility C Commitment" means:**

- (i) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "*Facility C Commitment*" in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility C Commitment transferred to it under the Facilities Agreement; and
  - (ii) in relation to any other Lender, the amount in the Base Currency of any Facility C Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.

**"Facility C Loan"** means a loan made or to be made under Facility C or the principal amount outstanding for the time being of that loan.

**"Facility D"** means the bridging loan facility made available under the Facilities Agreement as described in clause 2 (*Facilities*) of the Facilities Agreement.

**"Facility D Commitment" means:**

- (i) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "*Facility D Commitment*" in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility D Commitment transferred to it under the Facilities Agreement; and
  - (ii) in relation to any other Lender, the amount in the Base Currency of any Facility D Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.

**"Facility D Loan"** means a loan made or to be made under Facility D or the principal amount outstanding for the time being of that loan.

**"Facility E"** means the revolving credit facility made available under the Facilities Agreement as described in clause 2 (*Facilities*) of the Facilities Agreement.

**"Facility E Commitment" means:**

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "*Facility E Commitment*" in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility E Commitment transferred to it under the Facilities Agreement; and
  - (b) in relation to any other Lender, the amount in the Base Currency of any Facility E Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.

**"Facility E Guarantee"** means a guarantee issued by the Issuing Bank in accordance with the provisions of clause 6 (*Utilisation - Facility C Guarantees*) of the Facilities Agreement.

**"Facility E Loan"** means a loan made or to be made under Facility E or the principal amount outstanding for the time being of that loan

**"Facility F"** means the capital expenditure facility made available under the Facilities Agreement as described in clause 2 (*Facilities*) of the Facilities Agreement.

**"Facility F Commitment" means:**

- (i) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "*Facility F Commitment*" in part 2 of schedule 1 (*The Original Parties*) of the Facilities Agreement and the amount of any other Facility F Commitment transferred to it under the Facilities Agreement; and
  - (ii) in relation to any other Lender, the amount in the Base Currency of any Facility F Commitment transferred to it under the Facilities Agreement,
- to the extent not cancelled, reduced or transferred by it under the Facilities Agreement.



**Continuation Sheet 7 to Form 395**

**"Facility F Loan"** means a loan made or to be made under Facility F or the principal amount outstanding for the time being of that loan.

**"Fees Letters"** means the Arrangement Fees Letter and Agency Fee Letter and the Security Agency Fee Letter.

**"Finance Document"** means the Facilities Agreement, the Security Documents, the Intercreditor Agreement, the Hedging Documents, the Intra Group SA Loan Agreement, the Ancillary Documents, the Fees Letters, any Accession Letter, any Resignation Letter, the Syndication Side Letter and any other document designated as such by the Agent and Norcros (Holdings) Limited.

**"Finance Party"** means the Agent, the Mandated Lead Arranger, the Underwriter, a Lender, the Issuing Bank, the Hedging Provider, an Ancillary Lender or the Security Trustee.

**"Financial Indebtedness"** means any indebtedness for or in respect of:

- (a) monies borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (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 GAAP, 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.

**"Financial Year"** means the period of 12 months ending on or about 31 March in each year.

**"Fixtures"** means, in relation to any Real Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant, machinery and equipment and other items attached to the relevant Real Property whether or not constituting a fixture at law.

**"GAAP"** means generally accepted accounting principles in the United Kingdom.

**"Greek Loan Agreement"** means the loan agreement dated 22 December 1999 and made between Norcros Limited (as lender) and Philkeram Johnson S.A. (as borrower) (as amended pursuant to a supplemental agreement dated 24 February 2003) pursuant to which Norcros Limited made the Greek Loan available to Philkeram Johnson S.A.

**"Greek Loan"** means the loan, in the maximum aggregate principal amount of €7,260,046.95 made available to Philkeram Johnson S.A. by Norcros Limited.

**"Greek Security"** means the assignment of the Greek Loan Agreement dated on or about the Closing Date and executed by Norcros Limited in favour of the Security Trustee.

**"Group"** means Norcros (Holdings) Limited and its Subsidiaries for the time being (other than Norcros Group (Trustee) Limited, a company registered in England and Wales under company number 4001134)) (each a **"Group Company"** and each a **"member of the Group"**).

**"Guarantor"** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with clause 29 (*Changes to the Obligors*) of the Facilities Agreement.

**Continuation Sheet 8 to Form 395**

**"Hedging Arrangements"** means the interest rate swap and/or interest rate cap or other hedging arrangements acceptable to the Agent (acting reasonably on the instructions of the Majority Lenders), which have prior to the Closing Date, or are to be, entered into by Norcros (Holdings) Limited with the Hedging Provider (on terms which are competitive with those being offered by reputable financial institutions at such time and on comparable terms to those offered by the Hedging Provider to other counterparties of similar standing at such time) in respect of a minimum of 66<sup>2/3</sup> per cent. of the aggregate of Term Loans for a minimum period of two years.

**"Hedging Documents"** means the documentation entered into between the Hedging Provider and Norcros (Holdings) Limited in respect of the Hedging Arrangements.

**"Hedging Provider"** means any Lender which has acceded to the terms of the Intercreditor Agreement, in its capacity as provider of the Hedging Arrangements.

**"Insurances"** means all contracts and policies of insurance of whatever nature which are, from time to time, taken out by or on behalf of the Company or (to the extent of such interest) in which the Company has an interest.

**"Intellectual Property Rights"** means all patents, trade marks, service marks, designs, design rights, utility models, business names, topographical or similar rights, copyrights, moral rights, database rights, rights in inventions, computer software, know-how, trade secrets and confidential information and other intellectual property rights and any interests (including by way of licence) subsisting anywhere in the world in any of the foregoing (in each case whether registered or not and including all applications for the same) owned by the Company.

**"Intercompany Loans"** means each intercompany loan as set out in Schedule 2, Part VII of the Debenture.

**"Intercreditor Agreement"** means the intercreditor agreement dated 23 March 2006 and made between, *inter alia*, Norcros (Holdings) Limited, the Agent and the persons named in parts 1 and 2 of schedule 2 thereof.

**"Intra-Group SA Loan Agreement"** means the loan facility agreement dated on or around the date hereof and made between Norcros Limited and Norcros (S.A.) (Pty) Limited in a principal amount of up to R340,000,000.

**"Investments"** means:

- (a) the Shares and any other stocks, debentures, bonds, loan stocks, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "investments" (as defined in Part II of Schedule II to the Financial Services and Markets Act 2000 in force at the date hereof); and
- (b) units in Unit Trust Schemes.

**"Issuing Bank"** means a Facility E Lender which has notified the Agent that it has agreed to be an Issuing Bank (following a request from Norcros (Holdings) Limited) pursuant to the terms of the Facilities Agreement (and, if more than one Facility E Lender has so agreed, such Facility E Lenders shall be referred to (whether acting individually or together) as the **"Issuing Bank"**), provided that, in respect of a Guarantee issued, or to be issued, pursuant to the terms of the Facilities Agreement, the **"Issuing Bank"** shall be the Issuing Bank which has issued, or agreed to issue, such Guarantee.

**"Lender"** means:

- (a) any Original Lender; and
  - (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with clause 28 (*Changes to the Lenders*) of the Facilities Agreement,
- which in each case has not ceased to be a Party in accordance with the terms of the Facilities Agreement.

**"Liability"** means any obligation or liability for the payment of money, whether in respect of principal, interest or otherwise, whether actual or contingent, whether owed jointly or severally and whether as principal or surety or in any other capacity whatsoever.

**Continuation Sheet 9 to Form 395**

**"Loan"** means a Facility A Loan, a Facility B Loan, a Facility C Loan, a Facility D Loan, a Facility E Loan or a Facility F Loan.

**"Majority Lenders"** means:

- (a) (for the purposes of clause 39.1(a) (*Required consents*) of the Facilities Agreement in the context of a waiver in relation to a proposed Utilisation of Facility E (other than a Utilisation on the Closing Date) of the condition in clause 4.2 (*Further conditions precedent*)) of the Facilities Agreement, a Lender or Lenders whose Available Commitments and Available Ancillary Commitments with respect to Facility E aggregate more than  $66\frac{2}{3}$  per cent. of the Available Facility and the aggregate Available Ancillary Commitments with respect to Facility E; and
- (b) (in any other case), a Lender or Lenders whose Commitments aggregate more than  $66\frac{2}{3}$  per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than  $66\frac{2}{3}$  per cent. of the Total Commitments immediately prior to that reduction).

**"Material Contracts"** means the contracts detailed in Part IV of Schedule 2 (*Material Contracts*) of the Debenture and any other contract from time to time which has a value in excess of £1 million.

**"Notice of Assignment"** means a duly completed notice of assignment in the form set out in the relevant Part of Schedule 3 (*Notices of Assignment*) of the Debenture being:

- (a) Part IA, in the case of Insurances;
- (b) Part IIA, in the case of Assigned Accounts; and
- (c) Part IIIA, in the case of Material Contracts.

**"Obligor"** means a Borrower or a Guarantor.

**"Optional Currency"** means a currency (other than the Base Currency) which complies with the conditions set out in clause 4.5 (*Conditions relating to Optional Currencies*).

**"Original Borrower"** a company listed as such in part 1 of schedule 1 (*The Original Parties*) of the Facilities Agreement.

**"Original Guarantor"** a company listed as such in part 1 of schedule 1 (*The Original Parties*) of the Facilities Agreement.

**"Original Lender"** means Barclays Bank PLC.

**"Party"** means a party to the Facilities Agreement.

**"Quarter"** means each of the respective periods of 13 or 14 weeks (being 3 Trading Periods) ending on or around the last day of March, June, September and December in each Financial Year.

**"Real Property"** means freehold or leasehold property in England and Wales and any other land, buildings or erections anywhere in the world and any estate or interest therein, and any reference to Real Property includes all rights, easements and privileges from time to time attached or appurtenant thereto and all buildings, erections and Fixtures from time to time therein or thereon.

**"Receiver"** means any administrative receiver, receiver and/or manager or any other receiver (whether appointed pursuant to the Debenture or pursuant to any statute, by a court or otherwise) of all or any of the Secured Assets.

**"Registered Intellectual Property Rights"** means patents, registered trade marks and registered designs, including applications for any of the same in any part of the world.

**"Related Rights"** means, in relation to any Investment of the Company:

- (a) any proceeds of and any right or option to receive any dividend, distribution, interest or other income paid or payable in relation to any such Investment; and
- (b) any right or option to receive, call for delivery of or otherwise acquire any stocks, shares, debentures, bonds, loan stocks, warrants, securities, monies or other property of any kind, accruing or offered at any time or deriving therefrom, whether in addition to or in substitution for such Investment.

**Continuation Sheet 10 to Form 395**

**"Resignation Letter"** means a letter substantially in the form set out in schedule 7 (*Form of Resignation Letter*) of the Facilities Agreement.

**"Secured Assets"** means all of the assets, rights, title, interests and benefits of the Company from time to time the subject of the Security.

**"Secured Creditors"** means each of the Finance Parties and any Receiver appointed under the Debenture.

**"Security"** means the security created or purported to be created by the Debenture.

**"Security Agency Fee Letter"** means the letter dated on or prior to the Closing Date from the Mandated Lead Arranger and the Security Trustee to Norcros (Holdings) Limited in respect of fees payable in accordance with clause 15.4 (*Fees*) of the Facilities Agreement.

**"Security Documents"** means:

- (a) the South African Share Pledge;
- (b) the Greek Security;
- (c) the Debenture;
- (d) the South African Security Documents; and
- (e) any other documents which are from time to time entered into by any member of the Group in favour of the Security Trustee (or any other Finance Party) as security for any and all monies and liabilities due, owing or incurred by any member of the Group under the Finance Documents (or any of them) (each a **"Security Document"**).

**"Security Period"** means the period beginning on the date of the Debenture and ending on the date upon which:

- (a) none of the Secured Creditors is under any obligation (whether actual or contingent) to make advances or provide other financial accommodation to any Borrower under any of the Finance Documents; and
- (b) all Secured Obligations have been unconditionally and irrevocably paid and discharged in full, and the Security Trustee undertakes to provide a written confirmation to the Company promptly upon being satisfied that such is the case.

**"Shares"** means the shares identified in Part III of Schedule 2 (*Shares*) (if any) of the Debenture and all other shares in the capital of any company now or in the future legally or beneficially owned by any Company and/or any nominee on its behalf.

**"South African Security Documents"** means:

- (a) the following security documents to be executed by Norcros (S.A.) (Proprietary) Limited in favour of Norcros Limited:
  - (i) notarial general covering bond in respect of all of Norcros (S.A.) (Proprietary) Limited's movable assets;
  - (ii) notarial special bond in respect of a monocoturra floor tile line (represented as Jumbo kiln line 2) including auxiliary equipment;
  - (iii) mortgage bond in respect of stand 981 Clayville, Extension 12 Township situated in the Province of Gauteng;
  - (iv) pledge of shares in Tal (Proprietary) Limited;
  - (v) pledge of shares in Tile Africa Group (Proprietary) Limited;
  - (vi) pledge of shares in Lesatsi Trading (Proprietary) Limited; and
  - (vii) cession of debtors.
- (b) the following security documents to be executed by Tile Africa Group (Proprietary) Limited in favour of Norcros Limited.
  - (i) cession of debtors;
  - (ii) notarial general covering bond over the movable assets of Tile Africa Group (Proprietary) Limited;
- (c) the following security documents to be executed by Tal (Proprietary) Limited in favour of Norcros Limited;
  - (i) cession of debtors;
  - (ii) mortgage bond in respect of Erf 112701 Cape Town at Cape Flats, in the City of Cape Town, Cape Division, Province of the Western Cape;

**Continuation Sheet 11 to Form 395**

- (iii) general notarial bond over movables;
  - (iv) pledge of shares in Talcro Properties (Proprietary) Limited;
  - (d) the following security documents to be executed by Lesatsi Trading (Proprietary) Limited in favour of Norcros Limited;
    - (i) mortgage bond in respect of FourWays Property / Section 1 Forest Road Phase 1;
  - (e) the following security documents to be executed by Talcro Properties (Proprietary) Limited in favour of Norcros Limited;
    - (i) mortgage bonds in respect of:
      - (A) Erf 200 Spartan Township. Registration Division I.R., Province of Gauteng; and
      - (B) Erf 198 Spartan Township. Registration Division I.R., Province of Gauteng;
- each in form and substance reasonably satisfactory to the Security Trustee.

**"South African Share Pledge"** means the share pledge executed on or about the Closing Date by Norcros Industry (International) Limited in respect of Norcros (S.A.) (Proprietary) Limited.

**"Subsidiary"** means:

- (a) a subsidiary within the meaning of section 736 of the Act; and
- (b) a subsidiary undertaking within the meaning of section 258 and schedule 10A of the Act.

**"Syndication Side Letter"** means the letter concerning the management of the syndication process of the Facilities dated on or around the date of the Facilities Agreement from the Mandated Lead Arranger to Norcros (Holdings) Limited.

**"TARGET"** means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

**"TARGET Day"** means any day on which TARGET is open for the settlement of payments in euro.

**"Term Loan"** means a Facility A Loan, a Facility B Loan, Facility C Loan, a Facility D Loan or a Facility F Loan.

**"Termination Date"** means:

- (a) in relation to Facility A, the seventh anniversary of the Closing Date;
- (b) in relation to Facility B, the eighth anniversary of the Closing Date; and
- (c) in relation to Facility C, the ninth anniversary of the Closing Date;
- (d) in relation to Facility D, the seventh anniversary of the Closing Date;
- (e) in relation to the Facility E, the seventh anniversary of the Closing Date; and
- (f) in relation to Facility F, the seventh anniversary of the Closing Date.

**"Total Ancillary Commitments"** means the aggregate of the Ancillary Commitments.

**"Total Commitments"** means the aggregate of the Total Facility A Commitments, the Total Facility B Commitments, the Total Facility C Commitments the Total Facility D Commitments, the Total Facility E Commitments and the Total Facility F Commitments, being £127,500,000 at the date of the Facilities Agreement.

**"Total Facility A Commitments"** means the aggregate of the Facility A Commitments, being £45,000,000 at the date of the Facilities Agreement.

**"Total Facility B Commitments"** means the aggregate of the Facility B Commitments, being £20,000,000 at the date of the Facilities Agreement.

**"Total Facility C Commitments"** means the aggregate of the Facility C Commitments, being £20,000,000 at the date of the Facilities Agreement.

**"Total Facility D Commitments"** means the aggregate of the Facility D Commitments, being £12,500,000 at the date of the Facilities Agreement.

**Continuation Sheet 12 to Form 395**

**"Total Facility E Commitments"** means the aggregate of the Facility E Commitments, being £20,000,000 at the date of the Facilities Agreement.

**"Total Facility F Commitments"** means the aggregate of the Facility F Commitments, being £10,000,000 at the date of the Facilities Agreement.

**"Unit Trust Scheme"** has the meaning set out in Section 237(2) of the Financial Services and Markets Act 2000.

**"Utilisation"** means a utilisation of a Facility.

**"Utilisation Date"** means the date of a Utilisation, being the date on which the relevant Loan is to be made, or as the case may be, Facility E Guarantee is issued.

**"Utilisation Request"** means:

- (a) in the case of a Loan, a notice substantially in the form set out in part 1 of schedule 3 (*Requests*) of the Facilities Agreement; and
- (b) in the case of a Facility E Guarantee, a notice substantially in the form set out in part 3 of schedule 3 (*Requests*) of the Facilities Agreement.

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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. 00307859

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 23rd MARCH 2006 AND CREATED BY H & R JOHNSON TILES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE SECURED CREDITORS (OR ANY OF THEM) 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 5th APRIL 2006.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 13th APRIL 2006.



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES