

# M

Please do not  
write in  
this margin

CHA 116

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

\*insert full name  
of company

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies

For official use

Company number

[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

3623229

Name of company

\* GILBRAN INVESTMENTS (WYNDHAM PORTFOLIO) LIMITED

Date of creation of the charge

20th October 1998

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

A Debenture between Gilbran Investments (Wyndham Portfolio) Limited (the "Company") and Henry Ansbacher & Co Ltd (the "Bank") dated 20th October 1998 (the "Debenture")

Amount secured by the mortgage or charge

Please see attached Rider 1

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

Henry Ansbacher & Co Ltd, One Mitre Square, London EC3A 5AN

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

Cameron McKenna  
Mitre House  
160 Aldersgate Street  
London  
EC1A 4DD

50557829.01

Time critical reference

For official use  
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

Please see attached Rider 2

Please do not  
write in  
this margin

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

Particulars as to commission allowance or discount (note 3)

Nil

Signed

*Gemma Nicholls*

Date

29.10.98

On behalf of ~~[company]~~ [mortgagee/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.

## **RIDER 1**

### **M395 Particulars of a mortgage or charge**

Name of company: Gilbran Investments (Wyndham Portfolio) Limited

Company No.: 3623229

Description of instrument: Debenture

#### **(Amount secured by mortgage or charge)**

1. The Company covenanted with the Bank to pay as follows (the "Secured Obligations"):
  - 1.1 all monies which at the time of the Debenture are or at any time thereafter may be or become due or owing by the Company to the Bank on any current or other account and discharge all other liabilities, whether actual or contingent, then existing or thereafter incurred by the Company to the Bank (whether in either case due, owing or incurred by the Company alone or jointly with any other person(s) and in whatever name, firm or style and whether as principal or surety, and whether originally incurred, due or owing to the Bank or becoming so incurred, due or owing by virtue of a transfer or assignment or other disposition thereof to or in favour of the Bank) together with interest, discount, commission and other banking charges;
  - 1.2 interest on such monies and other liabilities at the rate agreed between the Company and the Bank or, in the event of no such rate having been agreed, at a rate determined in accordance with the Bank's usual practice (the rate so agreed or determined to apply after as well as before any demand or judgment), such interest to be paid on such dates as may have been agreed or, in default of such agreement, upon interest payment dates selected by the Bank in accordance with its usual practice and to be compounded with rests on such payment dates in the event of its not being duly and punctually paid.
2. All the costs, charges and expenses of the Bank properly incurred by the Bank in relation to the Debenture or the Secured Obligations (including, without limitation, the costs, charges and expenses incurred in or in connection with the preparation of the Debenture or the registration or other perfection of any security constituted by or pursuant to the Debenture, or in connection with any proposed waiver or variation of any of the provisions of the Debenture or of the consideration or investigation of any act or omission which constitutes or which is believed by the Bank may constitute a breach of any such provision, or in connection with the exercise of any of the rights, remedies and powers hereby conferred on the Bank or the enforcement of the security constituted under the Debenture or pursuant thereto, or in connection with the perfection or enforcement of any other security for or guarantee in respect of the Secured Obligation) shall be reimbursed by the Company to the Bank on demand on a full indemnity basis together with the amount of any value added tax chargeable on or

in respect thereof. Until so reimbursed the same shall carry interest as mentioned in paragraph 1.2 above accruing from the date of the same being incurred by the Bank.

3. The Company undertook in the Debenture to the Bank that the Company would at all times while there shall subsist any security constituted by or pursuant to the Debenture indemnify the bank (and as a separate covenant any Receiver or Receivers appointed by it) against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character) which now or at any time during the continuance of the security constituted by or pursuant to the Debenture are payable in respect of the Charge Property or any part thereof or by the owner or occupier thereof.
4. The Company agreed in the Debenture to indemnify the Bank and as a separate covenant any Receiver appointed by the Company against the sums referred in paragraph 3 above and against all costs, claims, demands, expenses, charges, assessments, impositions, fines and sums (whether imposed by deed or statute or otherwise or whether of the nature of capital or revenue and even though of a wholly novel character) and the consequences of any proceedings or prosecutions arising directly or indirectly from, or in connection, any breach by the Company of any Environmental Law. If any such sums shall be paid by the Bank or any Receiver, the same shall be paid by the Company on demand with interest as provided in paragraph 1.2 of Rider 1 from time to time or respective times of the same having been paid or incurred by the Bank or the Receiver as the case may be.
5. If at any time the Company shall fail, or shall be believed by the Bank to have failed, to perform any of the undertakings contained in paragraphs 3 or 4 above it shall be lawful for the Bank, but the Bank shall be under no obligation, to enter the Charged Property or any part thereof, with agents appointed by it and architects, contractors, workmen and others, and to exercise such works and do such other things as may in the opinion of the Bank be required to remedy such failure and to take such other steps on or in relation to the Charged property or any parts thereof (including, without invitation, the payment of money) as may in the opinion of the Bank be required to remedy such failure. The costs to the Bank of such works and steps shall be reimbursed by the Company to the Bank on demand and until so reimbursed shall carry interest as mentioned in paragraph 1.2 of Rider 1 above from the date of payment to the date of reimbursement. No exercise by the Bank of its powers under this paragraph 5 or under any other provision of the Debenture shall render the Bank liable to account as a mortgagee in possession.

## **RIDER 2**

### **M395 Particulars of a mortgage or charge**

Name of company: Gilbran Investments (Wyndham Portfolio) Limited

Company No.: 3623229

Description of instrument: Debenture

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

1. The Company charged in favour of the Bank with the payment and discharge of the Secured Obligations:
  - (a) by way of first fixed charge (which so far as it relates to land in England and Wales vested in the Company at the time of creation of the Debenture shall be a charge by way of legal mortgage) the following, namely:
    - (i) all estates and other interests in freehold, leasehold and other immovable property wheresoever situate at the date of the Debenture or thereafter belonging to the Company (including without limitation the property, if any, of the Company described or referred to in the Schedule hereto, but excluding land in Scotland) and all buildings, trade and other fixtures, fixed plant and machinery from time to time on any such freehold, leasehold and other immovable property, including, without limitation, all vendor's liens, mortgages, charges, options, agreements and rights affecting land of any tenure wheresoever situate (other than land in Scotland) to which the Company is at the time of creation of the Debenture or may thereafter become entitled;
    - (ii) independently of paragraph 1(a)(i) above, all rents, licence fees, mesne profits, recoveries under any distress, payments in respect of service charges, insurance premiums or outgoings, income, compensations, incomes and payments from time to time received or receivable by or on behalf of the Company from or in respect of any of the assets mentioned in paragraph 1 (a) (i) above;
    - (iii) all book and other debts and monetary claims (including, without limitation, deposits and credit balances held with the Bank or third parties from time to time and things in action which give rise or may give rise to any such debt or claim) at the date of the Debenture or at any time thereafter due or

owing to the Company, together with the full benefit of all guarantees and securities therefor and indemnities in respect thereof and all negotiable instruments, liens, reservations of title, rights of tracing and other rights enabling the Company to enforce any such debts or claims;

- (iv) all stocks, shares, debentures, loan capital, rights to subscribe for, convert other securities into or otherwise acquire any stocks, shares, debentures or loan capital of any other body corporate at the time of the creation of the Debenture or at any time thereafter belonging to the Company, together with all distributions, dividends, interest and other property or rights of whatsoever kind deriving from or incidental to any of the foregoing;
- (v) the goodwill of the Company and the uncalled capital of the Company at the date of the Debenture or at any time thereafter in existence and future calls (whether made by the directors of the Company or by a receiver or a liquidator);
- (vi) all trade names, brand names, registered and unregistered trade or service marks, trade and industrial secrets, computer programmes and source codes, copyrights, patents, inventions and intellectual property or any licences to use any of the same (together the "intellectual property") to which the Company at the time of creation of the Debenture or may thereafter become entitled and all fees, royalties and other rights of every kind deriving from the intellectual property at the time of creation of the Debenture or at any time thereafter belonging to the Company;
- (vii) all plant and machinery at the time of creation of the Debenture or at any time thereafter belonging to the Company (excluding however plant and machinery for the time being forming part of its stock in trade or work in progress and all trade and other fixtures and fixed plant and machinery within paragraph 1(a)(i) above) and all the right, title and interest of the Company in any plant, machinery and chattels from time to time held by the Company under any hiring, hire purchase, conditional or deferred sale or retention of title agreements and all the interests and rights of the Company under such agreements;
- (viii) all chattels at the time of creation of the Debenture or at any time thereafter hired, leased or rented by the Company to any other person together in each case with the benefit of the related hiring, leasing or rental contract and any guarantee, indemnity or other security for the performance of the obligations of any person under or in respect of such contract; and

- (ix) all entitlements which the Company may at any time have to the payment of any money or the release, vesting or transfer of any other property by reason of an order made under sections 238, 239, 242, 243, 244 or 423 Insolvency Act 1986 or resulting from any settlement or compromise of any claim under any of those sections;
- (b) by way of first floating charge:
  - (i) all the Company's land and other property, present or future, for the time being or from time to time situate in Scotland,
  - (ii) all such parts of the Company's undertaking, property and assets, present and future, as are for the time being or from time to time:
    - (a) situate outside Scotland; and
    - (b) not subject to an effective fixed charge in favour of the Bank under paragraph 1(a) above or the provisions of any deed or other instrument executed pursuant hereto.

The property, assets and undertaking of the Company for the time being charged to the Bank (whether by way of fixed or floating charge) by or pursuant to the Debenture and each and every part thereof are below referred to as the "Charged Property".

2. The security from time to time constituted by or pursuant to the Debenture shall:
  - (a) be in addition to and shall be independent of every bill, note, guarantee, mortgage or other security which the Bank may at any time hold for any of the Secured Obligations and it is hereby declared that no prior security held by the Bank over the Charged Property or any part thereof shall merge in the security created hereby or pursuant hereto; and
  - (b) remain in full force and effect as a continuing security until discharged by the Bank.

3. The covenant referred to in section 76(1)(D) Law of Property Act 1925 shall not apply to any leasehold property in England and Wales for the time being forming part of the Charged Property.

**NB.** The Company covenanted in the Debenture that it would not at any time without the prior written consent of the Bank:

- (a) create, extend or permit to subsist any mortgage or other fixed security, floating charge, pledge, hypothecation or lien (other than a lien arising

by operation of law in the ordinary course of business) or other security interest of any kind, on or in the Charged Property or any part thereof, whether in any such case ranking in priority to or pari passu with or after the fixed and floating charges created by the Company under paragraph 1 above or any other security of the Bank created pursuant to this Debenture; or

- (b) save as otherwise permitted or required under the terms of the Facility Letter, sell, transfer, lease, lend or otherwise dispose of, whether by means of one or a number of transactions related or not and whether at one time or over a period of time, the whole or any part of the Company's undertaking or (save in the normal course of trading as presently conducted) of its assets, or enter into an agreement (otherwise than an agreement conditional upon the consent or agreement of the Bank being obtained) for any such sale, transfer, lease, loan or other disposal.

**NB** The Company has covenanted with the Bank such that the Bank shall be entitled upon the occurrence of an Event of Default (as defined in the Facility Letter) by notice in writing to the Company to convert the floating charge created by paragraph 1 into a fixed charge affecting all the property and assets which for the time being are the subject of such floating charge or, as the case may be, such of the said property and assets or categories or descriptions thereof as are specified by such notice.

**NB** The following definitions apply:

**Event of Default** means as defined in the Facility Letter.

**Facility Letter** means an agreement between the Bank and the Company dated 20th October 1998 whereby the Bank agrees to provide a term loan facility of up to a maximum principal amount of £4,150,000.

THE SCHEDULE referred to in Rider 2 Clause 1(a)(i)  
contained the following details

(Land in England and Wales vested in the Company at the date hereof)

1. Land and buildings at the North East Side of Ipswich Road, Cardiff as registered at HM Land Registry with leasehold title absolute under title number WA672904.
2. 293 Penarth Road, Cardiff as registered at HM Land Registry with freehold title absolute under title number WA125509.
3. Land and buildings on the South Side of Cardiff Road, Newport as registered at HM Land Registry with freehold title absolute under title number WA411425.
4. Land and buildings on the South Side of Port Road, Maesglas Industrial Estate Newport as registered at HM Land Registry with freehold title absolute under title number WA199648.
5. Land and buildings on the North East Side of Hadfield Road, Cardiff as registered at HM Land Registry with freehold title absolute under title number WA633 887.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03623229

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th OCTOBER 1998 AND CREATED BY GILBRAN INVESTMENTS (WYNDHAM PORTFOLIO) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO HENRY ANSBACHER & CO. LIMITED ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 29th OCTOBER 1998.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 2nd NOVEMBER 1998.

A handwritten signature in cursive script, appearing to read 'R. N. Owens'.

RICHARD NEIL OWENS  
for the Registrar of Companies



C O M P A N I E S H O U S E

*La*  
*2/11*  
*AA*