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## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 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)

For official use

Company number

023183/10

Name of company

\* SIR ROCCO FORTE & FAMILY (GENEVA) LIMITED ("the Company") ✓

Date of creation of the charge

2 July 2004 ✓

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

Debenture ("the Debenture")

Amount secured by the mortgage or charge

All present and future liabilities and obligations (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which now or after the date of the Debenture may be or become due and owing by the Company to any Secured Party under the Relevant Documents ("the Secured Obligations").  
  
See continuation sheet for definitions.

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

The Governor and Company of the Bank of Scotland ("the Security Trustee"), The Mound, Edinburgh  
  
Postcode EH1 1YZ

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

Maclay Murray & Spens  
3 Glenfinlas Street  
Edinburgh  
EH3 6AQ

NXH/JMXM/SMK/BAN/13/1125

Time critical reference

For official Use  
Mortgage Section

Post room



A08  
COMPANIES HOUSE

0368  
08/07/04

CHFP025

Please do not write in this margin

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

\*insert full name of Company

Short particulars of all the property mortgaged or charged

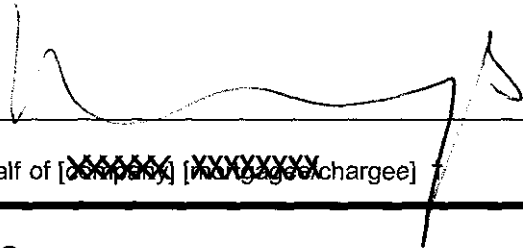
See continuation sheet no.1

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



Date 7 JULY 2004

A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

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.
- 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

## Continuation sheet 1

To the Registrar of Companies

Name of company	Company number
Sir Rocco Forte & Family (Geneva) Limited	5133159

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("the Company")

- 1.1 The Company in security for the payment or discharge of the Secured Obligations, with full title guarantee charges in favour of the Security Trustee:-
- (a) by way of a first legal mortgage all estates or interests in any freehold and leasehold property (except any heritable or leasehold property in Scotland) now or after the date of the Debenture belonging to it;
  - (b) by way of a first fixed charge:-
    - (i) (to the extent that they are not the subject of an effective mortgage under paragraph 3.1(a) of the Debenture) all estates or interests in any freehold or leasehold property belonging to the Company now or at any time after the date of the Debenture belonging to it (other than any property the subject of clause 3.1(a) of the Debenture) including any rights under any occupational lease, licence or other right of occupation;
    - (ii) all plant and machinery owned by the Company and its interests in any plant or machinery in its possession;
    - (iii) all monies standing to the credit of any account with any person and the debts represented by them;
    - (iv) all benefits in respect of all contracts and policies of insurances taken out by or on behalf of the Company or (to the extent of the Company's interest) in which the Company has an interest and all claims and returns of premiums in respect of any such policies;
    - (v) all of its book debts and other debts, the proceeds of the same and all other moneys due and owing to the Company and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
    - (vi) all its rights under any interest rate hedging arrangements;
    - (vii) any beneficial interest, claim or entitlement of the Company in any pension fund;

- (viii) its goodwill;
  - (ix) its uncalled capital;
  - (x) all stocks, shares and other securities held now or in the future by it and/or any nominee on its behalf and all dividends and other distributions paid or payable on any such stocks, shares or other securities (and interest thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise or in respect of any such stocks, shares or other securities or in substitution or exchange thereof;
  - (xi) all its present and future Intellectual Property Rights owned by it; and
  - (xii) the benefit of all licences, consents and authorisations (statutory or otherwise) held in connection with its business or the use of any Asset specified in any other sub-paragraph in clause 3.1 of the Debenture and the right to recover and receive all compensation which may be payable to it in respect of them;
- (c) by way of floating charge the whole of its undertaking and all other property, assets and rights of whatever nature and wherever situated both present and future which are not otherwise effectively charged pursuant to paragraphs (a) and (b) above or (in relation to assets situated in Scotland) whether or not the same are effectively charged pursuant to paragraphs (a) and (b) above.

1.2 A reference in the Debenture to a charge or mortgage of any freehold or leasehold property includes:-

- (a) all buildings and all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery;
- (b) the proceeds of any sale of any part of that property; and
- (c) the benefit of any covenants for title given or entered into by any predecessor in title of the Company in respect of that property or any moneys paid or payable in respect of those covenants.

1.3 Without prejudice to clause 3.1(b)(v) of the Debenture, if, pursuant to any Relevant Document, the Company is entitled to withdraw the proceeds of any book and other debts standing to the credit of an account and, as a result, those proceeds are in any way released from the fixed charge created pursuant to clause 3.1(b)(v) of the Debenture and stand subject to the fixed charge created pursuant to clause 3.1(b)(iii) of the Debenture or the floating charge created pursuant to clause 3.1(c) of the Debenture, the release will in no way derogate from the subsistence and continuance of the fixed charge on all other outstanding book and other debts of the Company and the proceeds of those debts.

1.4 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created pursuant to the Debenture.

## 2. Conversion of floating charge

2.1 The Security Trustee may at any time following the occurrence of an Event of Default which is continuing or if the Security Trustee reasonably considers the Assets to be in danger of

being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy by notice in writing to the Company convert the floating charge created by the Debenture into a fixed charge in respect of any assets specified in the notice and the Company will immediately at its own cost execute a fixed charge over the specified assets in favour of the Security Trustee in such form as may be reasonably required.

- 2.2 The floating charge created by the Debenture shall (other than in respect of any of the Assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under Section 72 of the Insolvency Act 1986 by reason of automatic conversion) immediately convert into a fixed charge in respect of:-

For the purpose of this Form 395;

“Assets”	means the whole of the property, assets and undertaking of the Company subject to the charges contained in clause 3 of the Debenture;
“Event of Default”	has the meaning given to it in the Facility Agreement;
“Facility Agreement”	means the facility agreement dated on or around the date of this Debenture among inter alia Sir Rocco Forte & Family (Luxury Hotels) Limited (Company Number 04413112) as Borrower, the Original Lenders (as defined therein) and The Governor and Company of the Bank of Scotland as Arranger, Agent, Security Trustee and Guarantor Bank in relation to term loan facilities;
“Finance Documents”	have the meaning given to them in the Facility Agreement;
“Finance Parties”	have the meaning given to them in the Facility Agreement;
“Intellectual Property Rights”	means any and all intellectual property rights of any nature anywhere in the world whether registered, registrable or otherwise including but not limited to patents, utility models, trademarks, registered designs, semi-conductor topography rights and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights into databases, moral rights, know how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, sketches, instruction manuals, lists and particulars of customers, marketing methods and procedures and advertising and marketing literature;

"Loan Stockholders"	has the meaning given to it in the Facility Agreement;
"Loan Stock Instrument"	has the meaning given to it in the Facility Agreement;
"Receiver"	includes any person or persons appointed (and any additional person or persons appointed or substituted) as a receiver and manager or a receiver by the Security Trustee under this Debenture and shall include joint Receivers;
"Relevant Documents"	means each of the Finance Documents and the Loan Stock Instrument and any other document designated as such from time to time by the Security Trustee and any of them shall be a "Relevant Document";
"Secured Parties"	means each of the Finance Parties and the Loan Stockholders or any person designated as such from time to time by the Security Trustee and any of them shall be a "Secured Party";

For the purposes of this Form 395, any reference to any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect.

FILE COPY



**CERTIFICATE OF THE REGISTRATION  
OF A MORTGAGE OR CHARGE**

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

COMPANY No. 05133159

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 2nd JULY 2004 AND CREATED BY SIR ROCCO FORTE & FAMILY (GENEVA) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ANY SECURED PARTY ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 8th JULY 2004.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 13th JULY 2004.

*D. Ram*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES