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COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

FREE PAID

£ 13.00 M

For official use - Company number

06133835

CHFP025

Please do not write in this margin

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

*insert full name of Company

Pursuant to section 395 of the Companies Act 1985

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

Name of company

* Dubwath Limited (the Company)

Date of creation of the charge

17 April 2007

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

Security Agreement between (among others) the Company (as Chargor) and the Security Agent (as defined below) dated 17 April 2007 (the Security Agreement)

Amount secured by the mortgage or charge

All present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under any Finance Document, except for any obligation or liability which, if it were so included, would result in the charge contravening any law (including section 151 of the Companies Act 1985) (the Secured Liabilities)

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

Barclays Bank PLC (the Security Agent) of 27th Floor, Churchill Plaza, London

Postcode E14 5HP

Presenter's name address and reference (if any)

Allen & Overy LLP
40 Bank Street
Canary Wharf
London

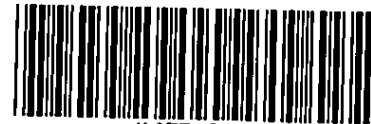
E14 5DU

Time critical reference
SCL/12018 01960

For official Use (06/2005)
Mortgage Section

Post room

MONDAY



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LD3

23/04/2007

398

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

see continuation sheets

Please do not write in this margin
Please complete legibly, preferably in black type, or bold block lettering

42
05

Particulars as to commission allowance or discount (note 3)

Nil

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

Signed *Allen + Overy LLP*

Date *19/04/07*

On behalf of ~~XXXXXXXXXXXXXXXXXX~~ [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

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED

1. CREATION OF SECURITY

1.1 General

- (a) All this Security
- (i) is created in favour of the Security Agent,
 - (ii) is security for the payment, discharge and performance of all the Secured Liabilities, and
 - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994
- (b) If the Company assigns an agreement under the Security Agreement (or charges it by way of a first fixed charge) and the assignment or charge breaches a term of that agreement because a third party's consent has not been obtained
- (i) the Company must notify the Security Agent immediately,
 - (ii) the assignment or charge will not take effect until that consent is obtained,
 - (iii) unless the Security Agent otherwise requires, the Company must, and each other Chargor must ensure that the Company will, use all reasonable endeavours to obtain the consent as soon as practicable, and
 - (iv) the Company must promptly supply to the Security Agent a copy of the consent obtained by it

1.2 Land

- (a) The Company charges
- (i) by way of a first legal mortgage all estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives that Company a right to occupy or use property, this includes any specified in Part 1 of Schedule 2 (Security Assets) of the Security Agreement opposite its name or in Part 1 of the schedule to any Deed of Accession by which it became a party to this Deed, and
 - (ii) (to the extent that they are not the subject of a mortgage under subparagraph (i) above) by way of first fixed charge all estates or interests in any freehold or leasehold property owned by it and all rights under any licence or other agreement or document which gives the Company a right to occupy or use property
- (b) A reference in the Security Agreement to any freehold or leasehold property includes
- (i) all buildings, erections, fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery on that property owned by the Company, and

- (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Company in respect of that property and any moneys paid or payable in respect of those covenants

1.3 Investments

- (a) The Company charges
 - (i) by way of a first legal mortgage all shares in any member of the Group owned by it or held by any nominee on its behalf, this includes any specified in Part 2 of Schedule 2 (Security Assets) of the Security Agreement opposite its name or in Part 2 of the schedule to any Deed of Accession by which it became a party to the, and
 - (ii) (to the extent that they are not the subject of a mortgage under subparagraph (i) above) by way of a first fixed charge its interest in all shares, stocks, debentures, bonds, warrants, coupons or other securities and investments (including all Cash Equivalents) owned by it or held by any nominee on its behalf
- (b) A reference in the Security Agreement to any share, stock, debenture, bond, warrant, coupon or other security or investment includes
 - (i) any dividend, interest or other distribution paid or payable,
 - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,
 - (iii) any right against any clearance system, and
 - (iv) any right under any custodian or other agreement,in relation to that share, stock, debenture, bond, warrant, coupon or other security or investment

1.4 Plant and machinery

The Company charges by way of a first fixed charge all Plant and Machinery owned by it and its interest in any Plant and Machinery in its possession

1.5 Credit balances

The Company charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any account it has with any person, including its Collection Accounts and the debt represented by that account

1.6 Book debts etc.

Subject to Clause 2 12 (CID Facility Agreement) of the Security Agreement, the Company charges by way of a first fixed charge

- (a) all of its book and other debts,
- (b) all other moneys due and owing to it, and
- (c) the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any item under paragraph (a) or (b) above

1.7 **Insurances**

- (a) The Company assigns absolutely, subject to a proviso for reassignment on redemption, all amounts payable to it under or in connection with each of its Insurances and all of its rights in connection with those amounts (except, in each case, for rights and amounts in respect of credit insurance in respect of the CID Facility Agreement)
- (b) To the extent that they are not effectively assigned under paragraph (a) above, the Company charges by way of first fixed charge all amounts and rights described in paragraph (a) above
- (c) A reference in this Subclause to any amounts excludes all amounts received or receivable under or in connection with any third party liability Insurance and required to settle a liability of an Obligor to a third party

1.8 **Other contracts**

- (a) The Company assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of
 - (i) its Relevant Contracts,
 - (ii) any letter of credit issued in its favour, and
 - (iii) any bill of exchange or other negotiable instrument held by it
- (b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which that Company may derive from that right or be awarded or entitled to in respect of that right
- (c) To the extent that they do not fall within any other Subclause of this Clause and are not effectively assigned under paragraph (a) or (b) above, each Company charges by way of first fixed charge all of its rights under each agreement and document to which it is a party

1.9 **Intellectual property**

The Company charges by way of a first fixed charge all of its rights in respect of any Intellectual Property Rights, this includes any specified in Part 4 of Schedule 2 (Security Assets) of the Security Agreement opposite its name or in Part 4 of the schedule to any Deed of Accession by which it became a party to the Security Agreement

1.10 **Miscellaneous**

The Company charges by way of a first fixed charge

- (a) any beneficial interest, claim or entitlement it has to any assets of any pension fund,
- (b) its goodwill,
- (c) the benefit of any authorisation (statutory or otherwise) held in connection with its business or the use of any Security Asset,
- (d) the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to in paragraph (c) above, and

- (e) its uncalled capital

1.11 Floating charge

- (a) The Company charges by way of a first floating charge all of its assets whatsoever and wheresoever (other than any of its assets governed by Scots law) not otherwise effectively mortgaged, charged or assigned under the Security Agreement and all of its assets from time to time situated in Scotland or otherwise governed by Scots law by way of first floating charge whether or not otherwise effectively mortgaged, charged or assigned under the Security Agreement
- (b) Except as provided below, the Security Agent may by notice to a Company convert the floating charge created by the Company under the Security Agreement into a fixed charge as regards any of the Company's assets specified in that notice, if
 - (i) an Event of Default is outstanding,
 - (ii) the Security Agent reasonably considers those 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, or
 - (iii) the Company fails to comply, or takes or threatens to take any action which, in the reasonable opinion of the Security Agent, is likely to result in it failing to comply with its obligations under paragraph (a) of Clause 2 (Restrictions on Dealings) of the Security Agreement,

provided that this paragraph (b) shall not apply to any property, assets or rights from time to time situated in Scotland or governed by Scots law if, and to the extent that, a Receiver would not be capable of exercising his or her power in Scotland in relation to such assets under Section 72 of the Insolvency Act 1986

- (c) The floating charge created under the Security Agreement may not be converted into a fixed charge solely by reason of
 - (i) the obtaining of a moratorium, or
 - (ii) anything done with a view to obtaining a moratorium,under Section 1A to the Insolvency Act 1986
- (d) The floating charge created under the Security Agreement will (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge over all of each Company's assets
 - (i) if an administrator is appointed or the Security Agent receives notice of an intention to appoint an administrator, or
 - (ii) on the convening of any meeting of the members of that Company to consider a resolution to wind that Company up (or not to wind that Company up)
- (e) The floating charge created under the Security Agreement is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986

The giving by the Security Agent of a notice under paragraph (b) above in relation to any asset of a Company will not be construed as a waiver or abandonment of the Security Agent's rights to give any other notice in respect of any other asset or of any other right of any other Secured Party under the Security Agreement or any other Finance Document

2. RESTRICTIONS ON DEALINGS

The Company may not

- (a) create or allow to exist any Security Interest on any of its assets, or
- (b) either in a single transaction or in a series of transactions and whether related or not and whether voluntarily or involuntarily dispose of all or any part of its assets,

unless permitted under the Credit Agreement

In this Form 395

Additional Borrower means a company which becomes a Borrower in accordance with Clause 27 (Changes to the Obligors) of the Credit Agreement

Additional Chargor means a member of the Group which becomes a Chargor by executing a Deed of Accession

Additional Guarantor means a company which becomes a Guarantor in accordance with Clause 27 (Changes to the Obligors) of the Credit Agreement

Borrower means an Original Borrower or an Additional Borrower unless it has ceased to be a Borrower in accordance with Clause 27 (Changes to the Obligors) of the Credit Agreement

Chargor means an Original Chargor and any Additional Chargor

CID Facility Agreement means the confidential invoice discounting facility agreement to be entered into after the Signing Date between (among others) the Company and Barclays Bank PLC

Collection Account means in relation to any Chargor

- (a) any account specified in Part 5 of Schedule 2 (Security Assets) of the Security Agreement opposite its name or in Part 5 of the schedule to any Deed of Accession by which it became a party to the Security Agreement, and
- (b) any other account which the Company and the Security Agent have designated a Collection Account

Credit Agreement means the credit agreement dated 17 April 2007 between, amongst others, the Company, the Lenders (as defined in that agreement), the Facility Agent and the Security Agent

Event of Default means any event or circumstance specified as such in Clause 25 (Events of Default) of the Credit Agreement

Facility Agent means Barclays Bank PLC

Finance Documents means

- (a) the Finance Documents as defined in the Credit Agreement, and

(b) the Finance Documents as defined in the CID Facility Agreement

Group means the Dubwath Limited, the Target and each of their respective Subsidiaries for the time being

Guarantor means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 27 (Changes to the Obligors) of the Credit Agreement

Obligor means a Borrower or a Guarantor

Original Borrower means Dubwath limited (registered number 06133835)

Original Chargor means Dubwath Limited (registered number 06133835), Matthew Clark Wholesale Limited (registered number 02550982), Forth Wines Limited (registered number SCO39321) and The Wine Studio Limited (registered number 02867477)

Original Guarantor means Dubwath Limited (registered number 06133835), Matthew Clark Wholesale Limited (registered number 02550982), Forth Wines Limited (registered number SCO39321) and The Wine Studio Limited (registered number 02867477)

Plant and Machinery means in relation to the Company any plant, machinery, computers, office equipment or vehicles

Receiver means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under the Security Agreement

Relevant Contract means in relation to the Company any agreement specified in Part 3 of Schedule 2 (Security Assets) of the Security Agreement opposite its name or Part 3 of the schedule to any Deed of Accession by which it became party to the Security Agreement

Security means any security interest created, evidenced or conferred by or under the Security Agreement

Security Assets means all assets of the Company the subject of this Security

Subsidiary means a subsidiary undertaking within the meaning of Section 258 of the Companies Act 1985

Target means Matthew Clark Wholesale Limited (registered number 02550982), Forth Wines Limited (registered number SCO39321) and The Wine Studio Limited (registered number 02867477)

FILE COPY



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

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

COMPANY No 06133835

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A SECURITY AGREEMENT DATED THE 17th APRIL 2007 AND CREATED BY DUBWATH LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM EACH OBLIGOR 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 23rd APRIL 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 27th APRIL 2007.

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THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

— for the record —